

1 IN THE COUNTY OF WASHINGTON

2
3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY
4 VIRGINIA GAS AND OIL BOARD
5
6
7

8 JUNE 20, 2006
9

10
11 APPEARANCES:

12 **BOARD MEMBERS:**

13 PEGGY BARBAR - PUBLIC MEMBER
14 MARY QUILLEN - PUBLIC MEMBER
15 BILL HARRIS - PUBLIC MEMBER
16 DONALD RATLIFF - COAL REPRESENTATIVE

17
18 **CHAIRMAN:**

19 BENNY WAMPLER - DEPUTY DIRECTOR OF THE DMME AND CHAIRMAN

20 BOB WILSON - DIRECTOR OF THE DIVISION OF GAS & OIL AND
21 PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

22 **COUNSEL:**

23 SHARON PIGEON - ASSISTANT ATTORNEY GENERAL
24

25 MICHELLE BROWN
26 COURT REPORTING, INC.
27 P. O. BOX 1325
28 GRUNDY, VIRGINIA 24614

(276) 935-7141
(276) 935-8374 (FAX)

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1 BENNY WAMPLER: My name is Benny Wampler. I'm
2 Deputy Director for the Department of Mines, Minerals and
3 Energy and Chairman of the Gas and Oil Board and I'll ask the
4 members to introduce themselves starting with Ms. Quillen.

5 MARY QUILLEN: Mary Quillen. I'm Director of
6 Academic Programs for the University of Virginia here at the
7 center and I'm a citizen member of the Board.

8 PEGGY BARBAR: And I'm Peggy Barbar, Engineering
9 Dean at Southwest Virginia College and I'm a member of the
10 public at-large.

11 SHARON PIGEON: I'm Sharon Pigeon with the Office
12 of the Attorney General.

13 DONALD RATLIFF: I'm Donnie Ratliff with Alpha
14 Natural Resources and I represent the coal industry.

15 BOB WILSON: I'm Bob Wilson. I'm Director of the
16 Division of Gas and Oil and the Principal Executive to the
17 Staff of the Board.

18 BENNY WAMPLER: The first item on today's agenda is
19 a petition from EOG Resources, Incorporated for creation and
20 pooling of conventional gas unit Plum Creek #27-06. This is
21 docket number VGOB-06-0321-1604. This was continued from May
22 and we'd ask that the parties that wish to address the Board
23 in this matter to come forward at this time.

24

--

1 TIM SCOTT: Tim Scott for EOG Resources.
2 FLAVIOUS SMITH: Flavious Smith with EOG Resources.
3 BENNY WAMPLER: Let the record show no others. You
4 may proceed.

5 (Witness is duly sworn.)

6
7 FLAVIOUS SMITH
8 having been duly sworn, was examined and testified as
9 follows:

10 DIRECT EXAMINATION

11 QUESTIONS BY MR. SCOTT:

12 Q. Would you state your name, please?

13 A. Flavious Smith.

14 Q. And by whom are you employed?

15 A. EOG Resources.

16 Q. And your job description, please.

17 A. I'm the Division Land Manager.

18 Q. Are you familiar with EOG's application to
19 establish a drilling unit and pool unleased interest for Plum
20 Creek 27-06?

21 A. Yes.

22 Q. Is this unit located within an established
23 field?

24

1 A. No, it's under statewide spacing.

2 Q. Does EOG have drilling rights in this unit?

3 A. Yes.

4 Q. Are there any respondents that you wish to

5 dismiss from this application?

6 A. No.

7 Q. With regard to those respondents, have you

8 tried to reach an agreement with those parties?

9 A. Yes.

10 Q. Are you close?

11 A. I think so.

12 Q. What is the percentage of the unit does EOG

13 have under lease?

14 A. 62.18 %.

15 Q. And how was notice provided to the parties

16 listed on B-3?

17 A. Certified mail.

18 Q. All right. Was notice provided in any other

19 means?

20 A. Yes. We provided notice of the hearing as

21 published in the Bluefield Daily Telegraph.

22 Q. And when was that notice published?

23 A. February 24, 2006.

24

1 Q. Are there any unknown owners in this unit?

2 A. No.

3 Q. And have you filed proofs of publication and
4 certificates of mailing with Mr. Wilson?

5 A. Yes.

6 Q. Okay. Is EOG authorized to conduct business
7 in the Commonwealth?

8 A. Yes, we are.

9 Q. And do you have a blanket bond on file with
10 the department?

11 A. We do, yes.

12 Q. If you were to reach an agreement with the
13 unleased parties on Exhibit B-3, what terms would you offer?

14 A. A five year term, a cash bonus of \$5 an acre
15 and net mineral acre plus a one-eighth of eight-eighth
16 royalty.

17 Q. Is this...would you consider it to be a fair
18 market value for a lease in this hearing?

19 A. Yes.

20 Q. What percentage of the oil and gas estate is
21 EOG seeking to pool?

22 A. 37.82%.

23 Q. Is there an escrow requirement for this
24

1 particular unit?

2 A. No, there's not.

3 Q. Are you then requesting the Board to pool

4 the parties responded on Exhibit B-3?

5 A. Yes.

6 Q. Are you also asking that EOG be named

7 operator for this unit?

8 A. Yes.

9 Q. And where should elections by respondents be

10 sent?

11 A. EOG Resources, Inc., Southpoint Plaza One,

12 400 Southpoint Boulevard, Suite 300, Cannonsburgh,

13 Pennsylvania 15317, Attention: Flavious Smith, Division Land

14 Manager.

15 Q. And should this be the address for all

16 communications regarding this unit?

17 A. Yes.

18 Q. What's the...what's the proposed depth for

19 this well?

20 A. 5,580 feet.

21 Q. And are you requesting the Board to pool and

22 you're going to produce from all formations from the surface

23 to the target depth excluding coal, is that right?

24

1 A. Yes, that's correct.

2 Q. Okay. What are the estimated reserves for
3 this unit?

4 A. 300 million cubic feet.

5 Q. And what's the estimated dry hole costs for
6 this unit?

7 A. \$234,500.

8 Q. And the completed costs?

9 A. \$401,000.

10 Q. Was an AFE submitted with the application?

11 A. Yes, it was.

12 Q. And who prepared the AFE?

13 A. Michael McCowan who is our operations
14 manager.

15 Q. Does it include a reasonable charge for
16 supervision?

17 A. Yes, it does.

18 Q. And in your opinion, would this...the
19 pooling of this unit....establishment of this unit be in the
20 best interest of the parties respondent and prevent waste,
21 protect correlative rights?

22 A. Yes, it would.

23 Q. That's all the questions I have.

24

1 BENNY WAMPLER: Questions from members of the
2 Board?
3 (No response).
4 BENNY WAMPLER: Do you have anything further?
5 TIM SCOTT: No, sir.
6 BENNY WAMPLER: Is there a motion?
7 DONALD RATLIFF: Move to approve Mr. Chairman.
8 PEGGY BARBAR: I second.
9 BENNY WAMPLER: Second. Any further discussion?
10 (No audible response).
11 BENNY WAMPLER: All in favor, signify by saying
12 yes.
13 (All members signify by saying yes.)
14 BENNY WAMPLER: Opposed, say no.
15 (No audible response.)
16 BENNY WAMPLER: You have approval.
17 TIM SCOTT: Thank you.
18 FLAVIOUS SMITH: Thank you.
19 BENNY WAMPLER: The next item is a petition from
20 Equitable Production Company for repooling coalbed methane
21 unit VC-536616. This is docket number VGOB-05-1115-1532-01.
22 We'd ask the parties that wish to address the Board in this
23 matter to come forward at this time.

24

--

1 TIM SCOTT: Tim Scott for Pine Mountain Oil and
2 Gas. And I'm also here...I talked to Mr. Kaiser yesterday
3 afternoon, and he asked that the next four matters be
4 continued. We're still in negotiation.

5 BENNY WAMPLER: That's two, three and four and
6 five.

7 TIM SCOTT: And you have a letter to that effect
8 don't you, Mr. Wilson?

9 BOB WILSON: Mr. Chairman, actually on these items,
10 Mr. Kaiser called our office yesterday and said that he was
11 interested in having these items carried forward to the next
12 hearing.

13 BENNY WAMPLER: Is there anyone here that came
14 today for these items?

15 (No audible response.)

16 BENNY WAMPLER: Then they are continued. That
17 is...I'll go ahead and call the docket numbers. You check me
18 and make sure I'm doing that on the others. Next is docket
19 number VGOB-05-1115-1533-01 and 1537-01 and VGOB-06-0321-
20 1608---?

21 TIM SCOTT: Yes, sir.

22 BENNY WAMPLER: Are continued until next month?

23 TIM SCOTT: Yes, sir.

24

1 BENNY WAMPLER: Thank you.

2 TIM SCOTT: Thank you.

3 BENNY WAMPLER: The next item is a petition from
4 Juanita Hunt. And I cannot pronounce it---.

5 BOB WILSON: Przybycki.

6 BENNY WAMPLER: Przybycki Heirs for disbursement of
7 funds from escrow and authorization for direct payment of
8 royalties on unit EH-18. This is docket number VGOB-90-0419-
9 0004-01. We'd ask that the parties that wish to address the
10 Board in this matter to come forward at this time.

11 JIM TALKINGTON: Mr. Chairman, my name is Jim
12 Talkington. In this matter I'm representing the Juanita Hunt
13 Przybycki Heirs. They have provided me with a letter stating
14 that they're appointing me as their agent for this particular
15 purpose on this particular day. Would you like for me to
16 give you---?

17 BENNY WAMPLER: We need to look at...the attorney
18 to look at a copy of that.

19 JIM TALKINGTON: And these will correspond with the
20 Exhibit A.

21 SHARON PIGEON: Does Bob have these?

22 BENNY WAMPLER: Have you seen these?

23 SHARON PIGEON: Have you seen these?

24

--

1 BOB WILSON: Yes.

2 BENNY WAMPLER: Okay. You may proceed.

3 JIM TALKINGTON: This was a well initially operated
4 by Edwards Harden. Ms. Przybycki was an unlocateable at the
5 time and approximately a year ago one of her children tracked
6 down the current operator, which is Appalachian Energy, and
7 addressed the escrow account. I asked them to provide me
8 with a list of the heirs which is noted as Exhibit A on the
9 application and there is also an Exhibit B. This well, I
10 believe it was back in 1994, had two unknown and
11 unlocateables. We're requesting that John Wilson Counts be
12 listed as an existing conflicting owner claimant for escrow.
13 Ms. Hunt died without Will. One of the daughter's provided
14 me with an Affidavit of Heirship which is Exhibit A and the
15 corresponding letters that I've provided you appoint me as
16 their agent for this particular purpose. I'm requesting that
17 the escrow account for Ms. Hunt and her percentage be
18 disbursed. I have also received from the escrow agent, the
19 account for the well and have reconciled it with Appalachian
20 Energy's and they do match.

21 BENNY WILSON: Do you have a copy of that, Mr.
22 Wilson?

23 BOB WILSON: No, sir, I do not at this time.

24

1 BENNY WAMPLER: They need to have that...we need to
2 have that as part of the record.

3 JIM TALKINGTON: All right.

4 BENNY WAMPLER: And what is the amount?

5 JIM TALKINGTON: The amount is \$11,307.39.

6 BENNY WAMPLER: What are the percentages? Do you
7 have that on this sheet?

8 JIM TALKINGTON: The percentages---.

9 BENNY WAMPLER: Because if money is going in, you
10 know, we can only do it as of the date that you have on that
11 reconciliation and then we need the percentages.

12 JIM TALKINGTON: Okay. The percentage for Ms.
13 Przybycki is 0.738438%.

14 BENNY WAMPLER: Repeat that, please.

15 JIM TALKINGTON: 0.738438%. The escrow account for
16 the EH-18 had a total of 1.476876% and the percentage that I
17 gave you for the Przybycki Heirs is one-half of what was in
18 the account.

19 BENNY WAMPLER: Do you have that percentage on
20 there as well?

21 JIM TALKINGTON: Yes, sir.

22 BENNY WAMPLER: Okay. We need that presented to
23 Mr. Wilson, both of those dock...both of those items. We
24

1 will take the one that has the reconciliation on the account
2 as Exhibit A and the one that has the percentages as Exhibit
3 B. DO you have anything further?

4 JIM TALKINGTON: No, sir.

5 BENNY WAMPLER: Questions from members of the
6 Board?

7 DONALD RATLIFF: Mr. Chairman, did I understand---?

8 BENNY WAMPLER: Mr. Ratliff.

9 DONALD RATLIFF: ---you to say that there's a title
10 conflict?

11 JIM TALKINGTON: No. The...Ms. Przybycki was an
12 unlocateable at the time the well was applied for so
13 she...her interest was force pooled and until her death, her
14 children did not come forward, nor did she prior to that.

15 BENNY WAMPLER: And you...how did you represent
16 the...Mr. John Wilson Counts? I think that's where Mr.
17 Ratliff is going?

18 MARK SWARTZ: Yeah.

19 JIM TALKINGTON: I'm not representing Mr. Counts.

20 BENNY WAMPLER: I mean, you made a statement about
21 that.

22 JIM TALKINGTON: Oh, that was the other unknown and
23 unlocateable that was force pooled in 1994.

24

1 DONALD RATLIFF: But it was not a title conflict?
2 JIM TALKINGTON: No, sir.
3 DONALD RATLIFF: They were just unknown. Thank
4 you.
5 BENNY WAMPLER: Other questions?
6 SHARON PIGEON: He doesn't have anything to do with
7 this?
8 JIM TALKINGTON: He is the other one-half that will
9 remain in escrow and he is still unknown---.
10 SHARON PIGEON: That's the reason. It's not about
11 the title. It's about the unlocateable status.
12 JIM TALKINGTON: Yes, ma'am.
13 BENNY WAMPLER: Other questions?
14 (No audible response.)
15 DONALD RATLIFF: I move that we approve, Mr.
16 Chairman.
17 BENNY WAMPLER: Motion to approve. Is there a
18 second?
19 PEGGY BARBAR: I'll second.
20 BENNY WAMPLER: Any further discussion?
21 (No audible response.)
22 BENNY WAMPLER: All in favor, signify by saying
23 yes.
24

1
2 (All members signify by saying yes.)
3 BENNY WAMPLER: Opposed, say no.
4 (No audible response.)
5 BENNY WAMPLER: You have approval. Thank you.
6 JIM TALKINGTON: Thank you.
7 BENNY WAMPLER: Next is a petition from John
8 Sheffield, Trustee of the Oryn Treadway Sheffield, Jr. Trust
9 and Oryn Sheffield, Jr. This is docket number VGOB-05-1213-
10 1548. We'd ask the parties that wish to address the Board in
11 this matter to come forward at this time.
12 PETER GLUBIACK: Good morning, Mr. Chairman. Peter
13 Glubiack representing both of the Sheffield Trusts and I have
14 with me Mr. John Sheffield on behalf of both of the Trusts.
15 SCOTT SEXTON: Mr. Chairman, Scott Sexton of the
16 firm, Gentry, Locke, Rakes and Moore here representing the
17 Levisa Coal Company and Levisa oil and gas owners.
18 MARK SWARTZ: Mark Swartz, CNX Gas.
19 BENNY WAMPLER: Do you plan on Mr. Sheffield
20 testifying?
21 PETER GLUBIACK: Yes, sir, I do.
22 BENNY WAMPLER: Okay, we need to get him sworn.
23 (Witness is duly sworn.)
24
25

1 BENNY WAMPLER: You may continue.

2 PETER GLUBIACK: Thank you Mr. Wampler. Just by
3 way of brief background since this has been here a couple of
4 times, Mr. Sheffield filed this miscellaneous petition back
5 in November and it was initially heard at the December the
6 13th, 2005 Board meeting. At that time there was some fairly
7 extensive testimony but the...the gist of it was that the
8 Board felt that it would be appropriate and necessary for Mr.
9 Sheffield to return at a later date where he could list the
10 units and tracts at various percentages so the Board could
11 have a better idea of what exactly was going on. He came
12 back, it was tabled and rescheduled for the April meeting.
13 We appeared at the April meeting and Mr. Sheffield
14 distributed that information to the Board and I think we have
15 cleared that particular hurdle.

16 At that time if you will recall, Mr. Sexton
17 appeared on behalf of Levisa, although arguably claiming he
18 had no notice, he appeared and actually distributed a
19 memorandum. There was some discussion about notice since
20 this is somewhat of a unique situation we are asking the
21 Board order CNX to escrow sufficient...or escrow the moneys
22 involved in these various tracts. Notice became a very
23 substantial issue. It was determined that notice was going

24

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1 to have to be provided. It is my understanding in speaking
2 with Mr. Wilson, who has in turn spoken with Ms. Pigeon, that
3 the understanding was that given the regulations of the Board
4 and the specific language in...for VAC 25-160-140 governing
5 miscellaneous petitions to the Board that notice is to be
6 given to respondents or anyone who have interest in this
7 particular matter. It is our position certainly quite
8 strongly that the interested parties in this matter happen to
9 be those people who are involved in the Levisa, LLC as owners
10 or members. And we have at this time, and sent copies to Mr.
11 Wilson and to you Mr. Wampler, a copy of the notice to appear
12 at this meeting. I'm here to report today and I have not
13 given these to Mr. Wilson, but I have the certified mail
14 receipts and the return green cards for all of the
15 individuals involved and noticed on that list with the
16 exception...the singular exception of Fairview Limited
17 Partnership, which was to be listed as George T. Williams.
18 We do not have a return as of this date. Everybody else,
19 we've got a return on that. So, I guess, it is my position
20 that we have noticed everyone that under the regulations and
21 under the position of the Board, at least as I understand it,
22 that was entitled to notice and could in anyway be affected
23 by the decision of this Board to escrow.

24

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1 I had planned on having Mr. Sheffield testify
2 briefly, but in a nutshell this involves Mr. Sheffield and
3 his brother on behalf of their respective trusts claiming
4 that pursuant to a 1989 lease between his grandmother, the
5 Levisa folks and CNX, there was to be a determination or a
6 split of the royalties pursuant to coalbed methane in their
7 respective ownerships. At some time subsequent to the 1989
8 lease, which of course predated this Board and predated the
9 Gas and Oil Act, there was a determination made by someone,
10 as of yet completely unknown, either connected with CNX,
11 Levisa or both, that Ms. Pobst, Jessie Mae Pobst even though
12 she had been paid some \$31,000 pursuant to the lease was not
13 an owner and therefore not entitled to royalties. And for
14 the next fifteen plus years royalties were paid to the Levisa
15 owners and suit has been filed, in fact, not once but twice,
16 most lately on April 21st in Buchanan Circuit Court, alleging
17 breach of contract, accounting violations and discrepancies
18 in constructive trusts. That suit, obviously, is in its
19 infancy and, in fact, discovery has not even been served.
20 But it is our position and has been from the beginning, that
21 again I'm turning to the Statute itself 45.1-361.22 involving
22 force pooled or pooling of interest of coalbed methane that
23 under Section A, "When there are conflicting claims to the
24

1 ownership of coalbed methane gas, the Board, upon application
2 from any claimant, shall enter an order pooling all interests
3 or estates in the coalbed methane gas drilling unit for the
4 development and operation thereof." Essentially, it is our
5 position quite simply that there is a conflict, there is a
6 suit pending, the resolution of which I think I'd like to
7 predict, but I can't. However, there is clearly a conflict.
8 It is respectfully not the Board's job to determine the law
9 and resolve the conflict that rather determine that there is
10 in fact a conflict, whether the regulations requiring the
11 miscellaneous petition have been complied with, whether
12 notice has been given and then I would again respectfully
13 request that the Board then order CNX to essentially repool
14 and order escrow of those funds attributable to these claims.
15 So, that's our position. Mr. Sheffield is here. I told him
16 I was going to have him testify, but I decided it would be
17 quicker. So, if you have any questions we'd be glad to
18 answer them. Obviously, there are other parties here.

19 BENNY WAMPLER: What is your...just one question I
20 have. What is your specific claim? Is it for Oil and Gas,
21 is it for coal, is it---

22 PETER GLUBIACK: It is very specific, Mr. Wampler.
23 It is specifically the lease that was entered. It is our
24

1 position and it's a very convoluted trail, but Mr. Sheffield
2 and his brother, we claim and have asserted in Circuit Court,
3 are owners of 25% of the royalties which were disbursed
4 pursuant to the 1989 lease, which was made a part of the
5 complaint filed in Buchanan Circuit Court. This was split
6 among Pobst and Combs then it was another split of the 50%
7 undivided interest resulting in...for clarity's sake, Jessie
8 Mae Pobst heirs, which are now the Trust, being the owners of
9 25% of the royalties which would have...which have been paid
10 under the terms of that lease since 19...August of 1989.

11 BENNY WAMPLER: Anything---?

12 PETER GLUBIACK: And it is methane, I'm sorry, I
13 didn't answer your question. It is methane specifically,
14 coalbed methane.

15 BENNY WAMPLER: Okay. Thank you.

16 SCOTT SEXTON: Mr. Chairman, we renew all of the
17 objections that we noted in the filing that we made prior to
18 the last...last hearing. We do not believe, notwithstanding
19 any instructions that Mr. Glubiack claims to have received
20 from the Director or Counsel that...that notice has been
21 properly given. I will state for a fact that this...this
22 probably the least effort at good notice that I have ever
23 seen. We...we give notices routinely on new wells from CNX

24

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1 and they somehow have managed to...to find out that Trusts
2 are no longer Trusts and that things should be sent to
3 individuals and that some Trustees are in fact dead, for
4 example, the Fairview gentleman, and will be hard to find.
5 But CNX has it right on their last three years of
6 applications, but somehow Mr. Sheffield cannot find his way
7 to...clear to sending notice to the proper Levisa parties,
8 assuming that was all he had to send it to. It is our
9 position, and it's stated in the papers that we filed
10 earlier, that he has to send it to every gas owner for each
11 unit. This sounds like a hassle, correct. But these...these
12 regulations and the statutes that apply are there for a
13 reason. We are talking about 78 units of producing gas.

14 These 78 units, if you took one example of...V2
15 ...unit V2, I have a copy of the pooling order and the
16 application. There are probably hundreds of people who have
17 received notice of this. CNX had to go through that trouble
18 in order to get this order entered. This particular order
19 that this Board has entered says, "That there are no
20 conflicting claimants." All right. And what...what Mr.
21 Glubiack just said...the words he said, "What I'm essentially
22 asking you to do is repool." All right. He's asking to
23 amend pooling orders. When you do that, you give notice to

24

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1 every single person that is a party to this pooling order.
2 It's just the way that the Regs are written. And I think
3 that is...that's the way we read it and that's the position
4 that we have taken on notice and I believe CNX
5 concurs...concurs with that position.

6 Secondarily, miscellaneous petitions are not the
7 way to amend 78 pooling orders and that...that should be
8 obvious. The fact that Mr. Glubiack did not attach any of
9 the...any of the unit numbers when he sent out his
10 petition...he sends out a miscellaneous petition. It could
11 be for a dollar or it could be for a million dollars. It
12 could be for one unit or it could be for a million units.
13 But he says, "We're going to file a miscellaneous petition
14 and be there if you want to." It was just by accident that
15 we found out enough to be here. And, I believe, it was by
16 speaking with somebody just casually at CNX...an attorney for
17 CNX that indicated, well, you must be going to be there for
18 that and our client said I had no idea about it. So, these
19 things...these things are significant.

20 Secondarily, when you are moving for pooling you
21 have to be a gas or oil owner. You have to have some
22 reasonable, colorable claim to be a gas or oil owner. If you
23 notice, Mr. Glubiack was very glib about saying how he

24

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1 claimed under a lease. People do not claim under a lease.
2 Gas owners give leases. Coal owners give leases. But being
3 a party to a lease does not make you either a gas owner or a
4 coal owner. What he has to do is show you a deed. And what
5 he has done in this...in the miscellaneous petition is
6 outline for you very clearly how his client is not, in fact,
7 a gas, oil or coal owner. What he says, if you follow this
8 convoluted history, a large chunk of land, 12,000 acres, a
9 Mr. Combs and a Mr. Pobst own it. They convey all the coal
10 out to their coal company, that's Levisa today...that's
11 today's Levisa. Then you've got Mr. Pop...Mr. Pobst and then
12 you've got Mr. Combs. I represent the...the Combs heirs,
13 Fred Combs, who was a...was a judge in Tazewell. That...that
14 family, that's their grandfather. So anyway, he takes his
15 half of the gas and oil and it passes on down to his heirs.
16 So, that's the Combs' side. Then you have the Pobst side,
17 another prominent family in Buchanan County. Mr. Pobst and
18 his first wife Mary, they have three kids. In 1947, they do
19 a deed and it is right here in the petition...their
20 petitions. It says, "In April of 1947, Claude Pobst and Mary
21 Alice Pobst convey to each of their children a third interest
22 in that...in their oil and gas." So, they already conveyed
23 out all oil and gas. So, what was left after he conveyed out

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1 all this coal and timber and all of his oil and gas is just
2 this...this mythology of other mineral, plutonium.

3 PETER GLUBIACK: Mr. Chairman, I object to all. I
4 mean, I know this is his statement, but that is the subject
5 of the lawsuit. Did they or did they not...did he or did he
6 not convey all of the oil and gas? That is the issue that we
7 intend to show. That is the specific issue before the Court
8 is was oil and gas...all of the oil and gas or did in fact
9 and was there in fact a passing of the oil...of the coalbed
10 methane to Mrs. Jessie Mae Pobst pursuant to his Will.
11 That's the issue in the suit. Mr. Sexton is....by saying
12 all...I strongly object to that. That is the issue before
13 the Court.

14 BENNY WAMPLER: Objection noted.

15 SCOTT SEXTON: Mr. Chairman, I would...I would ask
16 that objections be made objections and not a reargument for
17 which I am sure you will give Mr. Glubiack opportunity for
18 later.

19 BENNY WAMPLER: Yes.

20 SCOTT SEXTON: In fact, his petition references the
21 deed. And it says, I quote from Mr. Glubiack's petition, "In
22 April 1947," this is paragraph 2C, "H. Carl Pobst and Mary
23 Alice Pobst convey to each of their three children a one-

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1 third undivided interest in their one-half interest in", drum
2 roll, "all", that's his language...that's Mr. Sheffield's
3 language, "of the oil and gas." All of it. Not some of it
4 and not part of it. All of it. I have the deed. But he
5 quoted it so well, you all probably don't need the actual
6 deed. But that's...that's what we're here about and so I
7 object to Mr. Glubiack's objection to the term all since he
8 used the term all. And all means all.

9 So, what his client comes in with is somewhat a
10 voodoo law claim that because there was "other mineral
11 interest" that drop down to Mr. Pobst's second wife, all
12 right, this is a two wife situation, his second wife got that
13 "other minerals". So...because they got the other minerals,
14 they want to claim now that gas is not all gas, but that it
15 is somehow other minerals.

16 Now, I would suggest to you that we've went through
17 fifteen years of escrowing because of coal and gas because no
18 one knew which one that was. And Mr. Glubiack and I have
19 had...had the distinction and honor of taking that all the
20 way up to the Supreme Court where he won and I lost. I was
21 representing the coal owners on that. And so he established
22 very conclusively that gas is gas and it wasn't coal. So,
23 everyone breathed a sigh of relief that at least it was going
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1 to be easy and Bob Wilson's job got extremely easy because it
2 was so clear after that point as to who owned what. But now
3 what they want to do is come in and add this crazy chaos that
4 someone's going to be coming in saying, "I own other
5 minerals. I own the trees. I own the air on the sap." I
6 mean, according to Mr. Glubiack, you could come in and have
7 the most ridiculous claim and you would still be entitled as
8 a claimant to have things escrowed. I'm suggesting to you
9 that that...I'll give you...for example, in these orders
10 the...the gas companies say who they got their lease from.
11 Here they got their lease from us. We're the gas owner and
12 it so happens we were also the coal owner on one side. Can
13 you imagine if now they have to go back and say, holly molly
14 I don't have a gas lease? I didn't get a lease from the sap
15 owner, I forgot the other minerals. And when I looked at the
16 deed and it said "all gas" I took it to mean what it said.
17 So, you all will have to go out on what I would call a voodoo
18 law limb in order to give any credence to this.

19 Now, I think it's one thing if Mr. Sheffield wants
20 to waste his money and actually file a lawsuit and get some
21 Judge somewhere to rule on this. I can tell you it is not
22 going to happen in Buchanan County because Judge Williams has
23 already ruled on this and we attached this case where he says

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1 it's one or the other. It's oil...it's gas or it's coal but
2 it's not other. He's already decided that and we've attached
3 a copy to it. So, that's the law in Buchanan County.

4 Now, if I were them and I were going to come in
5 here and present a voodoo claim I would at least have a case
6 from some state, maybe Puerto Rico or even Guam, that
7 supported my theory that said at least in Guam they have said
8 that the other mineral owner is the gas owner and the guy
9 that got all the gas really didn't get all the gas. But they
10 haven't. There is no such case. It...there never will be
11 such a case. And this Court...this body should not be out on
12 the forefront of this what I would say extremely aggressive
13 legal position, and instead should be applying the
14 definitions that are in...that are in the Code. We've cited
15 those and this is....this goes also to standing. The
16 Virginia Code has been consistent for many decades now in how
17 it defines gas. When it says gas in the Code 45.1-361.1, it
18 says, "Gas or natural gas means all natural gas whether
19 hydrocarbon or nonhydrocarbon or any combination or mix
20 thereof, including hydrocarbons, hydrogen sulfide, helium,
21 carbon dioxide, nitrogen, hydrogen, casing head gas and all
22 other fluids not defined as oil..." All right. So, we know
23 how the Virginia General Assembly has instructed you to

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1 define gas. We also know that the deed to my clients gives
2 them all the gas. And we also know that Mr. Glubiack is
3 claiming to have the other minerals and not coal. Mineral is
4 defined by, again, the Virginia Code, which I think is
5 your...it's your duty to follow and be instructed by as "Ore,
6 rock, and any other solid homogenous crystalline chemical
7 element or other compound that results from inorganic
8 processes of nature other than coal." So, it's "any other
9 solid homogenous crystalline chemical element". But it isn't
10 gas. And we know that because we have the definition of gas
11 and we have the definition of mineral.

12 What...what Mr. Glubiack is doing is he's asking
13 you to come in here and kind of check your brains at the door
14 so that if he's bold enough to say it, then you ought to be
15 bold enough to...to escrow. And that...that, I believe,
16 is...is not an appropriate result in this case. It's very
17 interesting since we have been against Mr. Glubiack on a
18 number of occasions and I have been in Court with him where
19 he was taking a vastly different view. And he has, in fact,
20 advanced a vastly different view to both the Buchanan County
21 Circuit Court where this would be ultimately heard if your
22 decision is appealed and to the Virginia Supreme Court when
23 he was trying to get them to say that gas was gas and it

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1 wasn't coal. But this....these are the words that Mr.
2 Glubiack used in that case. He said, "These terms have been
3 consistent throughout the course of modern science and any
4 attempts to classify coalbed methane as other than the
5 natural gas of which it is comprised makes no scientific or
6 practical sense." Second quote I'd like to give you, "It is
7 important to note that based upon the above definitions, as
8 well as the definitions of the present time, that the
9 definition of coal and the definition of gas has not changed
10 in the course of one hundred years." Now, using Mr.
11 Glubiack's words, I will tell you that my deed is 1947. It
12 says so in his same...in his petition. If it hasn't changed
13 in the last hundred years and the Virginia Code hasn't
14 changed in the last four or five decades and Mr. Glubiack
15 acknowledges that these definitions of coal and gas haven't
16 changed, then I suggest to you that all gas was clear to the
17 parties in 1947 when Mr. Pobst, together with his first wife
18 Mary, gave all their oil and gas for \$700, I say gave it,
19 sold it to their three children. They should not be troubled
20 by coming in here and having to defend this voodoo notion
21 that somehow all gas does not include what Mr. Glubiack
22 acknowledges is in fact gas. All gas is gas. That has been
23 decided.

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1 Another quote I'll leave you with, "Science and the
2 law dictate that coalbed methane be held to be a natural gas
3 and as such, not subject to a conveyance as part of the coal
4 estate. But it's a natural gas." Mr. Glubiack knows this.
5 What he's doing is testing the waters on a very novel theory.
6 I'd like nothing more than to be involved in it in the
7 Circuit Court and going back up to the Supreme Court, but it
8 shouldn't bother this Court. We should not escrow what is
9 that amounts to a lot of money for a period of years that Mr.
10 Glubiack's client, if he wants to be out there on the
11 forefront of this...this NASA movement is what it amounts to
12 in the law, then he ought to go out there and do that and
13 then come back.

14 There has been no allegation that CNX isn't good
15 for any money that it doesn't escrow. And, ultimately, it's
16 CNX's responsibility. They make the call on whether they
17 believe there is a conflicting claim. They've evidently made
18 that call. They've filed these unit applications.

19 We renew all the objections that are noted in our
20 brief and I thank you very much for letting me go long winded
21 on that.

22 BENNY WAMPLER: Thank you. Questions from members
23 of the Board?

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1 SHARON PIGEON: Are you going to let Mark---?

2 BENNY WAMPLER: Yes, I am. I'm seeing if the Board
3 has questions of Mr. Sexton.

4 (No audible response.)

5 BENNY WAMPLER: Mr. Swartz.

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7 MARK SWARTZ: Just a couple of points.

8 Procedurally, your know, it's pretty obvious that the
9 petitioner wants to modify a number of Board orders and, you
10 know, I don't think a miscellaneous petition is...is what you
11 file to do that. You know, in the past, you know, to
12 accommodate people and to, you know, use some kind of
13 economy, you know, people have combined, you know, a motion
14 to modify a group of pooling orders if there is a common
15 basis, you know, for the modification. But I would think
16 that, you know, what we should have on the table here in some
17 way, shape or form is a petition to modify that lists every
18 order that is sought to be modified that contains exhibits
19 that identify the tracts in those orders and the people who
20 are claimants in those tracts that the petition to modify the
21 orders seeks to accomplish. Now, I'm not sure that that
22 would require that notice be given to every person that was
23 pooled in any given order because my...my experience with the

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1 Board tells me that the Board's concern, once a unit is
2 pooled, seems to be that you need to give notice to everyone
3 who could be affected by the modification. So, you know, if
4 your modification affects only people in Tract Six in
5 whatever unit it is, those are the folks you would have to
6 notify. You wouldn't have to notify, at least my view, and I
7 think that's worn out by what you've done. So...but...I
8 mean, I would expect to see a petition that articulated that
9 it sought to modify a list of orders that included exhibits
10 that allowed everybody to know what pieces of those various
11 prior orders what tracts were sought to be modified and that
12 identified the people who...who were claimants or owners in
13 those tracts so that everybody knew...you know, had a list of
14 who...who should receive notice. It might be the same ten or
15 eleven people I don't know, but, you know, until we have
16 those exhibits we don't know.

17 You know, the standing issue is kind of a tricky
18 issue. I mean, the...the Board really hasn't addressed
19 standing, to my recollection, you know, in a direct
20 complicated way probably since very early 90s. You know, we
21 had a case at that point that...that got litigated over a
22 fair amount of time before the Board, and I think a coal
23 operator was claiming standing as a derivative of coal lease

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1 and rights granted under the coal lease, and, of course, that
2 pre-dated the decision that we now have that gas is gas or at
3 least in theory that gas is gas. And the Board struggled
4 with that and I think in that decision indicated that
5 standing needed to be pretty elastic and that...you know,
6 because otherwise you'd be making determinations as a Court
7 about what did the deed mean or that sort of thing and
8 if...and, you know, my recall of that is that essentially I
9 think, although you may not have used this word, my...my take
10 was that the Board was saying, look if somebody comes in here
11 with a good faith basis to argue they've got a claim, we're
12 going to let them proceed as if they have one and let the
13 Courts sort it out. To me, the problem in this particular
14 instance is I feel like you...you might want to be satisfied
15 that the standing claim here is a good faith claim. I mean,
16 I...I have some sympathy for Mr. Sexton. I'm not sure, I
17 haven't looked at the title here, but I have some sympathy
18 for his position. You know, when I read the petition it
19 sounds like they're saying someone in our chain of title got
20 a notice of a well work permit application and that gives us
21 title. And, you know...or someone came in and said somebody
22 made a mistake and offered me a lease. Well, you know, you
23 get title because you got a deed or you got a grant or...or

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1 something and, you know, when I...when I look at what's
2 before you in terms of what is the argument that...that the
3 petitioner is advancing that he says gives him standing, you
4 know, I think there's an opportunity here to say well this
5 just makes no sense and it's...it's not a good faith argument
6 advanced to support a claim of standing. Now, if he came in
7 here with a deed and...and...which he may be able to do, I
8 don't know. But it certainly isn't on the table, as far as I
9 can tell at this point. You know, if he came in here on a
10 deed obvious....with a deed, obviously, you've got to go with
11 that. But I do have some concern with regard to standing.

12 And, lastly, you know, we will do...the operator
13 will do whatever the Board orders us to do. So, I mean, if
14 there's an order that we should escrow these funds going
15 forward, that we should recoop monies, you know, we will do
16 whatever you order us to do. But the only reason I'm here is
17 I want to make sure that you know what you're being asked to
18 do and what you're doing and it's done in a clear enough way
19 so when you make an order telling my client what to do, we
20 know what we're supposed to do. And there really is a vacuum
21 here at this juncture. Not that it can't get fixed. But as
22 we sit here today, I don't see that there's enough detail on
23 the table for you to make an informed decision and convey to,

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1 you know, to your clients, you know, these clients or the
2 operator what it is, you know, people are supposed to do
3 going forward. So, those are...those are my concerns.

4 BENNY WAMPLER: Questions from members of the Board
5 of Mr. Swartz?

6 (No response)

7 BENNY WAMPLER: Mr. Glubiack.

8 PETER GLUBIACK: A couple of points...thank you,
9 Mr. Chairman. First, a couple of quick comments. There...
10 there are cases. What I want the Board to understand is that
11 the issue here in this case before the Buchanan Circuit Court
12 is not coal is coal, gas is gas. We're not seeking to
13 redefine gas and I agree with Mr. Sexton. I mean,
14 I...coalbed methane is CH₄. It's methane. It's gas. The
15 issue here is, the respective interests the various parties
16 have in this particular entity, coalbed methane. It is
17 common practice throughout Buchanan County...in fact Mr.
18 Sexton's clients themselves had leased coalbed methane
19 separate from deep conventional gas. I have copies of leases
20 as late as 19...as 2002 and 2003 and it's going on today as
21 we speak all over Southwest Virginia. There is, in fact, a
22 Supreme Court of Appeals case out of West Virginia that Mr.
23 Sexton and Mr. Swartz are certainly aware of, the Moss

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1 Decision, that, in fact, ruled that you can have separate
2 interests, you can lease your coalbed methane separate from
3 your conventional gas. That is an accepted practice. It's
4 being done all over the place. Consol and everybody else is
5 scrambling around to lease. And, in fact, the lease I'm
6 talking about is between CNX and Buchanan Realty. There are
7 several of them. Mr. John Ervin, one of his clients, has
8 actually separately leased coalbed methane separate from the
9 conventional gas. There is a distinction.

10 This is a contract action involving a lease, a
11 contract between three separate parties, Mr. Sexton's
12 clients, Mr. Swartz's clients and my client's grandmother
13 that in 1989 there was a determination made, early on in this
14 process, we're not sure exactly what the...what this is going
15 to be about, but we're going to enter into essentially a
16 three party agreement and we're going to agree...CNX or
17 whoever they were at the time, OXY I believe, is going to pay
18 royalties to two separate groups of people Jessie Mae Pobst
19 as the owner of other minerals, whatever that is, and Mr.
20 Sexton's clients as the owners of oil and gas. That was the
21 determination and that was the lease. That was the lease
22 that was paid on and all of a sudden was stopped. There was
23 a "determination made" back in '89 or '90 by someone and I'm
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1 not sure who, we're going to find that out in the course of
2 the law suit, that Ms. Pobst had no interest. We think
3 that's wrong. We think the contract called for her to have
4 an interest. We're not seeking to redefine. We're not
5 asking you to redefine. We're not going to go to Judge
6 Williams and ask him to redefine that gas is gas and coal is
7 gas...coal is coal. What we're asking him to do is simply to
8 honor the terms of the lease that was entered into between
9 these parties. That's this action. It's a contract action.
10 It's not a declaratory judgement action. It's not the kind
11 of case that I filed and Mr. Sexton defended where we were
12 trying to figure out what this stuff was. We know what this
13 stuff was, it's gas. The fact is Mrs. Pobst was Willed an
14 interest and entered into a lease and that's what we're suing
15 on. It's a contract action. Lots of entities around this
16 area of the country are leasing it separate than deep gas.
17 The West Virginia Supreme Court said you can do it. I'm sure
18 the Virginia Supreme Court will eventually say you can do it.
19 That's what we're here...that's what we're in front of.

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21 On the notice issue, I don't know. I think we gave
22 notice to those parties that I think the Board thought was
23 most appropriate, the only parties that were going to be

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1 affected. You know, that's what we did. If...if we have to
2 broaden that and give more notice then so be it. But we made
3 a good faith effort to give notice to those people who were
4 affected pursuant to our petition. When Mr. Sheffield, and
5 as I'm sure he'd be willing to testify, asked Mr. Wilson what
6 to do, the idea was...yeah that's what a miscellaneous
7 petition is for. It's for that catchall group of things that
8 you want to do something and nobody is quite sure what to do.
9 The interest here is did we tell everybody who might be
10 affected if the Board orders is escrowed? And I think that
11 in all honesty, I think we told everybody who has a pennies
12 worth of interest in this case. Now, if you think of some
13 other people or if you want to re...reroute the process and
14 decide we're going to do something else, then I suppose we
15 can do that. But, in my opinion, you know, Mr. Sheffield
16 asked what to do and he did it. He was asked to produce more
17 information and he produced it. He was asked to notify
18 anybody who was going to be affected and he did that. This
19 is the third time we've been here and we've done everything
20 that we've been asked to do and I think that, in all honesty,
21 you also have to remember that, although it is an
22 administrative job and it is...it is something the operator
23 is going to have to do, we're not taking money out of
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1 anybody's pocket. We're just asking you to do your job. Put
2 the money where it's accounted for and we know where it is
3 and if we're right we get it and if Mr. Sexton's client's are
4 right they get it back. They get interest on it. You....you
5 do that all the time. The Statute is quite clear, you know.

6 "If there is a conflict, the Board shall order escrow.",
7 and that's...that's really what we're asking you to do.

8 We've given notice. We've filed a petition. If,
9 in all honesty, you decide that there's another hurdle to
10 jump through, I guess we'll do that. But I think that
11 pending the resolution of this lawsuit, and I agree with Mr.
12 Sexton, this is more likely going to end up in the Supreme
13 Court. But it's a contract action and we see that Jessie Mae
14 Pobst was part of this deal, they agreed willingly at arm's
15 length to pay her a percentage of the royalty and they just
16 didn't do it and they're not doing it now. And until they do
17 it and until the Court tells them to do it, we're asking you
18 to escrow the money. And that's what this is about. It's an
19 important principal. It's clearly following the Statute and
20 that's what we're asking you to do today.

21 SCOTT SEXTON: Mr. Chairman.

22 BENNY WAMPLER: Mr. Sexton.

23 SCOTT SEXTON: In light of the statements that were
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1 just made to which I am very...I particularly would like to
2 address Ms. Pigeon, to Counsel. In light of the statements
3 that were just made, I was under the impression that Mr.
4 Glubiack was coming in, and since I don't think it was a
5 false impression just from reading his petition, that he was
6 saying as the other mineral interest owner his client, in
7 fact, owned the coalbed methane and that...that was going to
8 be like the coal versus the gas and it was going to have to
9 be litigated and decided. What Mr. Glubiack just said is
10 that he is not going to do that and that is not the source of
11 the claim. What he says is that his client's grandmother
12 entered into a gas lease with Mr. Swartz's client's
13 predecessor, which was Oxy, and they...when he says, "they
14 promised to pay her a royalty", he's talking about Oxy USA,
15 which is now CNX Gas Company LLC.

16 MARK SWARTZ: Well, not necessarily.

17 SCOTT SEXTON: They are the...they are the
18 (inaudible), I believe, of the lessee interest. But he's
19 saying "they", this they, this they and not...not this they.
20 In order to have a conflict like he's talking about, he has
21 to have a conflict with this they, all right, and not a
22 contract claim with CNX, who by the way, has plenty of money
23 to pay, all right, a nowo...nobody is worried about royalties

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1 and the ability to collect royalties if you prevail on your
2 "contract claim" that he just said. I'm dumbstruck by the
3 fact that he just said this. But Mr. Glubiack has just
4 proved for this body that there is no conflict that he has
5 with another gas claimant, that's me, all right? His
6 conflict is with CNX and that's a...that's just a lease
7 dispute. I know that I've had quite a few lease disputes
8 with CNX or their predecessor overtime and I have never once
9 found it necessary to trouble this body to make sure there
10 would be enough money there to pay the judgement at the end
11 of the day. They've been good for it. They will remain good
12 for it. All you have to do is go on the internet and check
13 out their 10K or their most recent 8K and you'll find that
14 there's...there's plenty of cash in the bank. So, that's...
15 that removes all the business that this Board has with this
16 matter. If this is just a "contract claim"...all I know is
17 Mr....Mr. Glubiack's clients haven't sued my client's. I
18 don't think there's a lawsuit pending against us or I haven't
19 received it. But, in any event, I think he's...his words
20 just established that this...this body ought to move this one
21 right out the door and say, okay, then go do your contract
22 claim against CNX, get a judgement and happy...happy camping
23 collecting it. It's not hard. They're easy to find.

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1 They've got...and they've got real estate interest all over
2 Southwest Virginia. It's easy to find them.

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4 So, with that said, I think that makes your job
5 vastly, vastly easier. We thought they were coming in with
6 the voodoo thing of "other mineral equal coalbed methane",
7 and now instead they'd be coming in saying we got a lease
8 that Jessie Mae's Executor signed and so...and so we're
9 there. This...this body must know I could sign...I could
10 lease the gas in the first 500 feet of my ground, the second
11 500 feet, the bottom 15,000 feet, the border right over next
12 to China if you drill right through. I could lease...I could
13 lease however much I want. I can say I give you the helium
14 and I give you the coalbed methane and I give you the deep
15 natural gas and you all just go to drilling. Just like you
16 can with a...with a coal seam, the jawbone tiller, you know,
17 Poca 3, below or above. I mean, how many of these things
18 that you have the same piece of dirt and it has got ten
19 leases on it. All right. The fact that...that...I can tell
20 you this, the point of the West Virginia decision was not
21 that an owner can lease coalbed methane separately than gas.
22 That's a no-brainer. I can lease it however I want as the
23 owner. The question in that case was whether the owner

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1 intended to include coalbed methane when he did an oil and
2 gas lease. All right. West Virginia has not decided that
3 other mineral includes coalbed methane. All they have done
4 is dodged the decision, just like our General Assembly did
5 for how many years and even said they were doing it, no
6 offense, they said they were doing it when they did it. They
7 said we're not going to...we're not going to answer the
8 question. We'll just leave that for you all to decide for
9 another day. The Supreme Court did the same thing. If you
10 ask my opinion, I think they're going to say the coal owner
11 owns it. But that's...that's...that's where I think they're
12 headed. I think they left that door open and it's a very
13 strange opinion. But it does not say that "other mineral
14 equals coalbed methane". And I don't think that this is...I
15 do not believe what Mr. Swartz was hinting at that it is a
16 good faith argument. And I do not think that this Board
17 wants to be the first one to go down that...to do down that
18 path and start escrowing for everyone who wants to come in
19 and say, I either have a contract claim or I have the sap, or
20 the, you know, plutonium or, you know, uranium, or whatever.
21 So, I will...I will stop at that. Thank you.

22 BENNY WAMPLER: Mr. Swartz.

23 MARK SWARTZ: Just on standing. I mean, if we're
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1 talking about a lease, we need to be told that that's the
2 standing and that's the problem because if it's a lease
3 problem, we just need to go to Court with somebody, okay. If
4 it's something else, if it's title, we need to be told that,
5 you know. And, you know, the fact that we're even having
6 this discussion, I think, illustrates the problem with regard
7 to standing here. You know, we need to know if it's really a
8 lease dispute, we don't need to be here. If it's something
9 else, we need to know what that something else is. So. I
10 mean, that's the only issue I want to talk about.

11 BENNY WAMPLER: Questions or comments?

12 (No audible response.)

13 BENNY WAMPLER: Mr. Wilson, do you have any...
14 anything to add?

15 BOB WILSON: No, sir.

16 (Laughs.)

17 BENNY WAMPLER: Do you have any legal wisdom to
18 enlighten the Board on?

19 SHARON PIGEON: Well, I don't...I think that we
20 have a real problem no matter which way you try to go here.
21 For one thing, if you're being asked top escrow and alter
22 prior orders, you don't know which orders are being referred
23 to. This page back here with the order numbers or the VGOB

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1 numbers is not covering all of these units and some of them
2 have a unit with two. Here S-7, for instance, if you look,
3 we've two different numbers for that.

4 We've been told that we have notice out to everyone
5 who would be affected, but without looking at these, I don't
6 see how we can be assured of that that everyone who might
7 have their money escrowed at this late date has had the
8 opportunity to receive notice. We just don't have enough
9 information here to do much of anything with.

10 I unfortunately perhaps thought as Mr. Sexton did,
11 that this was about other minerals and you have just said
12 it's a contract claim.

13 PETER GLUBIACK: We have...we have a claim. They
14 have...they're getting money that belongs to my client. That
15 is a claim. And we do have a dispute---

16 SHARON PIGEON: But do you have a contract---?

17 PETER GLUBIACK: We have filed a contract action.
18 Whether that comes up or not, remains to be seen. But the
19 fact is---.

20 SHARON PIGEON: But you haven't filed a lawsuit
21 about other minerals?

22 PETER GLUBIACK: We have not filed a declaratory
23 judgement action. We have filed a suit to determine, and
24

1 under the way I read the Statute, it says, "when you have a
2 conflicting claim of ownership", and what this is is the
3 money resulting from the pumping...from CNX, the operator,
4 pumping gas, generating royalties, putting it in...or
5 not...in this case, that's the problem, not putting it in a
6 fund, but rather paying it to Mr. Sexton's clients. We have
7 a conflicting claim. And what...what else...what else can it
8 be if...if we say CNX is paying the money wrongfully to Mr.
9 Sexton's client resulting from their pumping of the gas
10 because they say there's no conflicting claim and therefore
11 they've resolved it among themselves and fifteen years worth
12 of royalties is gone to Levisa and the Levisa owners as
13 opposed to the Sheffield trust and the Pobst...and Jessie Mae
14 Pobst Heirs. That's a conflict.

15 SHARON PIGEON: Under a lease?

16 PETER GLUBIACK: Under...the lease, and contrary to
17 what maybe Mr. Sexton said and I'm not sure Mr. Swartz opined
18 on this or not, but the fact of the matter is that we have
19 introduced evidence. There is a...in that miscellaneous
20 petition is the deed, is the Will, is the ownership interest
21 of Mrs. Jessie Mae Pobst. I mean, I don't know what that
22 means. I'm not asking you to determine what that means.
23 What I'm asking you to say is that there is a claim to money

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1 that's being paid by CNX to someone else that we say belongs
2 to us. I don't think that this Board is in a position, is
3 being asked to or is statutorily empowered to determine the
4 conflicting claim. We...we have put faith and we have filed
5 suit in Buchanan Circuit Court that there's a conflict to the
6 claim to this money. It's money we're fighting about.
7 You're in charge of administering the money.

8 SHARON PIGEON: Well, but you've come before this
9 Board and asked them to overturn a number of orders and that
10 requires more than a scintilla of evidence. You have to have
11 something akin to a prima facie case to overturn orders and
12 not just to appear.

13 PETER GLUBIACK: I disagree, Mrs. Pigeon. But
14 that's...you know, you're the AG and I'm not. So,
15 that's...that's...I guess, we can take it up with the Court
16 with everything else.

17 SHARON PIGEON: Have you filed suit against---?

18 PETER GLUBIACK: Yes, we have.

19 SHARON PIGEON: Against Levisa?

20 PETER GLUBIACK: I have filed suit in Buchanan
21 Circuit Court against CNX, Levisa and all of the Levisa
22 Heirs. It was...it was filed on April 21st. I'll tell you
23 it has not been served because discovery is just about
24

1 finished. So, service has nothing to do with it. The suit
2 has been filed.

3 SHARON PIGEON: And you filed April the 21st?

4 PETER GLUBIACK: April the 21st.

5 SHARON PIGEON: And it has not been served?

6 PETER GLUBIACK: No, it has not. I have a year to
7 serve it.

8 SHARON PIGEON: Yes, you do.

9 MARK SWARTZ: I guess, we'll be looking for it on
10 April the 20th of next year, you know

11 SCOTT SEXTON: Right after taxes.

12 MARK SWARTZ: Yeah.

13 PETER GLUBIACK: Hopefully, before then.

14 SCOTT SEXTON: Hopefully, you will be done with
15 your discovery by then however---.

16 MARK SWARTZ: How do you that, you know? Anyway.

17 (Mr. Wampler and Ms. Pigeon confer.)

18 BOB WILSON: Mr. Chairman.

19 BENNY WAMPLER: Mr. Wilson.

20 BOB WILSON: I will throw one thing in here from a
21 procedural standpoint. There was mention made of possibly a
22 blanket order of some sort to repool all of these units. I
23 believe for sake of procedural propriety and general order

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1 and record keeping and anything, any units that would have to
2 be repooled would have to be done individually under the
3 existing or a new docket number. I don't think there's any
4 way that they could be repooled by a blanket order.

5 BENNY WAMPLER: And do we even know which orders
6 we're talking about here?

7 BOB WILSON: I don't. We have a list that was
8 supplied as part of Mr. Sheffield's provisions after the
9 first carry forward and I'm not sure. I think all this
10 information came out of our office, what he was able to
11 determine there. I would suspect that only the operator
12 would have the complete information as to which op...which
13 units are...have been pooled, will be subject to being
14 pooled, which ones are voluntary now and such. But my major
15 point is that I don't think this could be done under blanket
16 order. I think that each individual--.

17 BENNY WAMPLER: I would agree with that. It would
18 have to impact each individual and I think everybody here
19 knows it would have to impact each individual order that has
20 been previously issued.

21 PETER GLUBIACK: Mr. Chairman, but my...I want the
22 Board to understand that in the December meeting you ordered
23 Mr. Sheffield to come back with information. At some

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1 considerable expense and time, he spent the time in the Gas
2 and Oil Board office and came up with a list of units. I
3 mean, that's the best he can do.

4 JOHN SHEFFIELD: That's all that was there.

5 PETER GLUBIACK: You've got...you've got the force
6 pooling unit orders. It seems like a pretty fairly worthless
7 exercise to make him copy each one of these orders and give
8 them back to you since you've got them in your file. What he
9 was asked to do was identify tracts, identify units and he
10 did that.

11 JOHN SHEFFIELD: The VGOB numbers.

12 PETER GLUBIACK: The ones with the VGOB numbers
13 that are there and that are listed were given to you at the
14 April meeting pursuant to a lot of work. In addition, you
15 were given a map. In addition, you were given a list of
16 units that are not force pooled because it was...because at
17 the time, at least according to either these gentlemen or
18 their predecessors, there was no conflict. So, there are no
19 VGOB numbers on those. So, there's no force pooling order
20 unit and there is no other information. They were leased
21 units. But the...the units that were administered by the
22 Board and were given VGOB numbers are furnished to you. The
23 tracts are identified, units are identified and Mr. Sheffield

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1 did exactly what the Board asked him to do.

2 Now, if he has to come back, copy a force pooling
3 order and give it back to you so you can put it in a file,
4 then we can certainly do that but don't let it be said he
5 didn't give you----.

6 BENNY WAMPLER: Don't make light of what we're
7 talking about here.

8 PETER GLUBIACK: I'm certainly not.

9 BENNY WAMPLER: I think you are and I don't think
10 that's very wise to do that. I think what we're saying is
11 it's those very units that have not been force pooled, that
12 we don't have a pooling order on is that we're asking, you
13 know, how do we have those all identified and how do we know
14 which ones would have the impact? Mr. Wilson just said, and
15 we agreed, that we don't have an ability to just throw a
16 blanket order out there.

17 PETER GLUBIACK: So, ask the operator to come back
18 and tell you who it is. We don't have that information.
19 That's the point. We don't have this information. We can't
20 get it.

21 SHARON PIGEON: You...you'll be able to get it
22 during discovery.

23 PETER GLUBIACK: Well, we will, yeah.

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1 SHARON PIGEON: So, you could come back to us then
2 with that information.

3 MARK SWARTZ: He's asking you to enter an order
4 with regard to, I don't know, thirty or forty units that have
5 never been pooled. Well, how the heck are you going to do
6 that? I mean, you've got two problems. You've got the
7 problem that we're starting to talk about, which is there is
8 nothing to modify, okay? I mean there's...you know, if those
9 units aren't pooled, you know, where are you headed? And
10 then we've got, you know, the list of stuff that...you know,
11 the list of pooling orders that need to be modified. I mean,
12 there really are two completely different problems and, you
13 know, somebody has got to start from complete scratch on the
14 units that haven't been pooled, which I think is kind of
15 where you're headed at the moment.

16 BENNY WAMPLER: That's where I'm coming from.
17 Exactly.

18 MARY QUILLEN: Mr. Chairman.

19 BENNY WAMPLER: Ms. Quillen.

20 MARY QUILLEN: I have a...a question. I'm not
21 quite sure. These units that have not been pooled, there
22 could be one person or many people that have an interest, is
23 that correct?

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1 BENNY WAMPLER: That's correct.

2 MARY QUILLEN: And because we don't have any record
3 of them ever being pooled, then how many people are you
4 talking about that would be impacted if all of these were
5 force pooled?

6 BENNY WAMPLER: We wouldn't have anyway of knowing
7 that.

8 MARY QUILLEN: You wouldn't have any idea?

9 BENNY WAMPLER: That's not before the Board.

10 SHARON PIGEON: And those are the people that
11 should be getting the notice of this very proceeding.

12 MARY QUILLEN: That's my point exactly.

13 PETER GLUBIACK: Mr. Chairman.

14 BENNY WAMPLER: Mr. Glubiack.

15 PETER GLUBIACK: I think I'm going to ask something
16 that might make your job a little easier. What I'd ask the
17 Board to do is I'm going to withdraw this petition and refile
18 it once discovery has been completed we can identify those
19 parties. I understand. I know what the answer is going to
20 be, but I'd...you need to have that paperwork.

21 MARY QUILLEN: It concerns me, yes.

22 PETER GLUBIACK: So, we're going to...if it...if
23 it's okay with the Board, we're going to withdraw this
24

1 petition. We'll refile it once we have discovery...answers
2 to discovery and we have...we can identify them.

3 BENNY WAMPLER: Okay, it's withdrawn.

4 PETER GLUBIACK: Thank you, Mr. Chairman.

5 BENNY WAMPLER: Thank you. Thank you gentlemen.

6 The next item on the agenda is a petition from CNX Gas
7 Company, LLC for a modification of the Nora Field Rules to
8 allow for an additional well to be drilled in the O-75 unit.
9 This is docket number VGOB-89-0126-0009-04. We'd ask the
10 parties that wish to address the Board in this matter to come
11 forward at this time.

12 MARK SWARTZ: Mark Swartz and Les Arrington.

13 BENNY WAMPLER: Mr. Swartz, since CNX has several
14 on here, do you have some housekeeping before we start on
15 this one---?

16 MARK SWARTZ: Yes. We could---.

17 BENNY WAMPLER: ---in case there are people here
18 waiting for them?

19 MARK SWARTZ: Okay. This...this is a modification
20 on the Nora Rules on O-75 and we also had O-75 on the docket
21 as item fifteen. But between filing and today, we've leased
22 to outstanding interest, so that doesn't need to be pooled
23 and we can dismiss fifteen. We've got...as long as we're on

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1 that part of the docket---.

2 BENNY WAMPLER: Let me go ahead and interrupt you
3 here and just call that number. Docket number VGOB-06-0620-
4 1646 is dismissed. Go ahead.

5 MARK SWARTZ: Okay. And then with regard to item
6 sixteen, we had a request from some folks that came this
7 morning and asked for some time to consider leases and other
8 voluntary agreements and we have...we would be willing to
9 continue that until the next hearing voluntarily on their
10 request.

11 BENNY WAMPLER: Okay. This is docket number VGOB-
12 06-0620-1647. Anyone here for that?

13 PHILLIP JUSTICE: Yes, sir. And they were kind
14 enough, Mr. Arrington and Mr. Swartz, to give me a one month
15 continuance.

16 BENNY WAMPLER: Okay, that's continued.

17 MARK SWARTZ: And then we've got...also eleven and
18 thirteen, we'd like to continue those for a month.

19 BENNY WAMPLER: That's docket number VGOB-06-0620-
20 1642 and 1643. Anyone here for those two?

21 GEORGE MANSON: Yes, sir, we are.

22 BENNY WAMPLER: Any objection to a continuance?

23 MARK SWARTZ: What did they say? I'm so hard of
24

1 hearing.

2 BENNY WAMPLER: He's coming up.

3 MARK SWARTZ: Oh, okay.

4 BENNY WAMPLER: We're bringing him up and state his
5 name for the record.

6 MARK SWARTZ: Okay.

7 SHARON PIGEON: He hasn't been here in a little
8 while.

9 BENNY WAMPLER: If you will, state your name for
10 the record.

11 GEORGE MASON: Yes. My name is George Mason. I'm
12 the attorney representing LBR Holdings, LLC. We object to
13 the continuance. I think you said, Mr. Swartz, it was eleven
14 and thirteen or was it---?

15 MARK SWARTZ: Eleven and thirteen.

16 GEORGE MASON: And the reason being is that we're
17 here prepared to object to the force pooling of those wells.
18 The bases of our objection is that those two wells are...
19 actually B-50 and D-47 of docket item number twelve were the
20 subject of a informal fact-finding hearing and before Mr.
21 Wilson on Friday, December...excuse me, May 19th. We
22 objected as a coal owner of the well being closer than 2500
23 feet from the coal property. So, that is still in Mr.

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1 Wilson's hands as far as the objection of my client as the
2 owner of coal in those two wells, B-50 and E-43. We also
3 objected to D-47 as the royalty owner and in support of the
4 operator, GeoMet Operating Company, Inc., who is the operator
5 of the interest owned by LBR Holdings, LLC.

6 The reason for our objection is that we're here and
7 ready to go forward and with time and expense on behalf of my
8 client, we would go...rather that they'd be heard now rather
9 than continued to July---.

10 BENNY WAMPLER: What was your reason---?

11 GEORGE MASON: ---rather than having us come back
12 again.

13 BENNY WAMPLER: What was your reason for a
14 continuance, Mr. Swartz?

15 MARK SWARTZ: Well, you know, I'm pretty familiar
16 with the process because I've been doing this for fifteen
17 years and I've been dealing with that fellow over there with
18 the mustache for fifteen years and I...I don't want to like
19 suggest to him how he should decide any of these cases that
20 he's got, but he has eleven, twelve, and thirteen were all
21 the subject of informal fact-finding hearings on the same
22 day. Eleven and thirteen involved 2500 foot objections as I
23 recall.

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1 GEORGE MASON: That's correct.

2 MARK SWARTZ: And I think they're...and based on my
3 prior experiences with him, you always tend to lose those,
4 okay. So, I'm thinking that if we wait 30 days I'll get
5 decisions from Mr. Wilson, which kind of toasts me on eleven
6 and thirteen, and I'm not going to waste your time addressing
7 issues that I'm pretty confident I'm going to lose, okay.
8 It's sort of an efficiency issue. Now, if...if he wants to
9 go forward today, I mean, on these things he can go by
10 himself because, I mean, we're not going to waste our time on
11 that. Now, thirteen...I'm sorry, number twelve---

12 GEORGE MASON: Is that a concession speech?

13 MARK SWARTZ: Number twelve...that's my reason.
14 You know, number twelve, I'm feeling pretty frisky about that
15 and I think I'm going to win that one, okay. So, we would
16 like to go forward and pool that unit because I think I'm
17 actually going to, you know, have a well that I can drill in
18 that unit. So, that's my reason. But, you know, I don't
19 want you to take this as an opportunity to deny those.

20 BENNY WAMPLER: Well, I asked.

21 GEORGE MASON: One other thing too, is that we
22 support...there have been competing applications filed by
23 GeoMet for these three wells and we support their competing

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1 application for these three wells, besides having the
2 objection as the coal owner within 2500 feet for B-50 and E-
3 43, and then being the royalty owner with our objection on D-
4 47.

5 BENNY WAMPLER: Okay, we have a...we have a
6 recommendation, Board, that we continue items eleven and
7 thirteen. I think I said 43 instead of 6..1644 because I
8 thought you said eleven and twelve initially, but you
9 actually meant eleven and thirteen---.

10 MARK SWARTZ: I'm sorry, eleven and thirteen, yes.

11 BENNY WAMPLER: ---and you've heard the arguments
12 both ways. What's your pleasure?

13 (No audible response.)

14 BENNY WAMPLER: Mr. Wilson, do you have anything to
15 add to that?

16 BOB WILSON: Well, I would just point out that the
17 pooling process and the permitting process are two entirely
18 different aspects here and one can go forward or be held up
19 without the other being done the same.

20 BENNY WAMPLER: I'm fine to leave them on the
21 docket and be heard.

22 MARK SWARTZ: Okay.

23 BENNY WAMPLER: Any other housekeeping?

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1 MARK SWARTZ: That...that's it.

2 TOM MULLINS: GeoMet also has an interest when you
3 actually hear those.

4 BENNY WAMPLER: We're going to hear them. Okay,
5 now, we're back to item eight that I called on the agenda.
6 Mr. Swartz, you may proceed. The record will show there are
7 no others. Please be sworn.

8 (Leslie K. Arrington is duly sworn.)

9

10 LESLIE K. ARRINGTON

11 having been duly sworn, was examined and testified as
12 follows:

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. SWARTZ:

15 Q. Could you state your name for us?

16 A. Leslie K. Arrington.

17 Q. Who do you work for?

18 A. CNX Gas Company, LLC.

19 Q. What do you do for them?

20 A. I'm the manager of environmental and
21 permitting.

22 Q. With regard to this particular notice of
23 hearing and application concerning a modification of the Nora

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1 Field Rules on O-75, did you either prepare these documents
2 yourself or have them prepared under your direction?

3 A. I did.

4 Q. Okay. And I noticed you signed both the
5 notice of hearing and the application, is that correct?

6 A. That's correct.

7 Q. Is...who's the applicant here?

8 A. CNX Gas Company, LLC.

9 Q. Okay. And is CNX Gas Company, LLC, a
10 Virginia General partnership?

11 A. Yes, it is.

12 Q. Is it authorized to do business in the
13 Commonwealth?

14 A. Yes, it is.

15 Q. The...has CNX registered with the Department
16 of Mines, Minerals and Energy?

17 A. Yes.

18 Q. Does it have a blanket bond on file as
19 required by law?

20 A. Yes, it does.

21 Q. You've listed some folks here as...as
22 respondents. Do you want to add any additional respondents
23 today?

24

1 A. No.

2 Q. Do you want to dismiss any?

3 A. No.

4 Q. Okay. What did you do to notify these folks

5 that you were proposing to modify the Field Rules with regard

6 to this particular Nora unit?

7 A. No. We mailed by certified mail, return

8 receipt requested and we should have published in the

9 Bluefield Daily Telegraph. It was published in the Bluefield

10 Daily Telegraph on May the 27th, 2006.

11 Q. And have you filed proofs of mailing and

12 publication with Mr. Wilson?

13 A. Yes, we have.

14 Q. And what...tell the Board what...what you

15 are hoping to do here or what you're trying to do in regards

16 to this modification?

17 A. Yes, this is...as we've been here before on

18 the Oakwood field, on the infield drilling, we're actually

19 over in the Nora Field in an area that we have not done a lot

20 of drilling. We don't have a lot of production data in this

21 area. It's in a lease area that we call our Bull Creek

22 lease. And we've found a unit that we can get two wells

23 separated by a proper distance. And what we'd like to do is

24

1 drill these two wells within this 60 acre unit and see
2 how...what kind of reactions we get. Hopefully it will be
3 the same reaction as we're getting in the Oakwood field on
4 the infield drilling.

5 Q. So, essentially this is a test of infield
6 drilling in the Nora Field to see if you experience the kind
7 of spike in production that you've seen in portions of the
8 Oakwood?

9 A. Yes, it is. And we will be back before the
10 Board on additional infield drilling in other areas of 60
11 acre units.

12 MARK SWARTZ: So, that's...that's the point of this
13 and why we're here, Mr. Chairman, on this.

14 BENNY WAMPLER: Questions from members of the
15 Board?

16 DONNIE RATLIFF: You're putting two...Mr. Chairman.

17 BENNY WAMPLER: Mr. Ratliff.

18 DONALD RATLIFF: You're putting two holes down at
19 the same time or you've already got one hole down?

20 LESLIE K. ARRINGTON: No. We're going to put them
21 both down at the...basically at the same time, yes.

22 BENNY WAMPLER: What about the units surrounding...
23 what lead you, I guess, to this unit to be the unit that

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1 would be the most suitable---?

2 LESLIE K. ARRINGTON: Topography. Topography was
3 the biggest thing. We were just able to find suitable
4 surface locations. This is a new area for us.

5 BENNY WAMPLER: Mr. Wilson, do you have any
6 enlightenment for the Board?

7 BOB WILSON: No, sir. Again, if this one is
8 allowed to...to go, we would need to address the restrictions
9 insofar as drilling within the window and the minimum
10 distance between wells. I'm assuming that this is being done
11 pretty much as an experimental program to judge whether or
12 not you're going to continue to do this in the future.

13 LESLIE K. ARRINGTON: Yes, sir.

14 BOB WILSON: I, quite honestly, don't know any
15 other method of doing it other than the way they're
16 approaching it.

17 MARK SWARTZ: Mr. Arrington, have you filed these
18 applications already, the well work permit?

19 LESLIE K. ARRINGTON: I believe we have. I believe
20 both of them are in the office now.

21 MARK SWARTZ: Do you recall where the walls are
22 cited in the unit, because that will be the next question if
23 I don't ask it?

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1 LESLIE K. ARRINGTON: No, I do not.

2 MARK SWARTZ: Okay. But you believe they have been
3 filed?

4 LESLIE K. ARRINGTON: Yes. I think they have.

5 BENNY WAMPLER: And you said earlier, appropriate
6 distance between them, is that meeting all the standards that
7 we had set before as a Board as far as distance between the
8 wells---?

9 LESLIE K. ARRINGTON: Yes, it would be.

10 BENNY WAMPLER: ---and distance from the outer
11 border of the unit?

12 LESLIE K. ARRINGTON: Yes, sir, they are.

13 BENNY WAMPLER: Other questions from members of the
14 Board?

15 LESLIE K. ARRINGTON: Yeah, they're in the window.

16 MARK SWARTZ: Well, you need to say that.

17 LESLIE K. ARRINGTON: Yeah, they're in the drilling
18 window.

19 MARK SWARTZ: They're both in the drilling window.

20 BENNY WAMPLER: Is there a motion?

21 DONNIE RATLIFF: I move to approve.

22 MARY QUILLEN: Second.

23 BENNY WAMPLER: Motion is second. Any further
24
25

1 discussion?

2 (No audible response.)

3 BENNY WAMPLER: All in favor, signify by saying

4 yes.

5 (All members signify by saying yes.)

6 BENNY WAMPLER: Opposed, say no.

7 (No audible response.)

8 BENNY WAMPLER: Let me give you a hint, on the...on

9 the field orders, both for Oakwood and Nora---.

10 MARK SWARTZ: Okay.

11 BENNY WAMPLER: ---at some point we get to a point

12 that we...and you have provided information. But at some

13 point in time, we get to where you actually need a petition

14 to modify the field rules if that's what we're talking about

15 doing, the entire field rule and not selected field rules

16 because what we're ending up here with is piecemeal and if,

17 in fact, it's appropriate to do that, I don't know whether it

18 is or not, but where it is, I have a little concern that

19 we're not...we're not putting out the intent of what we're

20 doing here is going 40 acre units and 30 acre units here, if

21 they work out. And, I mean, if that's the way it is, that's

22 the way it is.

23 MARK SWARTZ: To respond, in a direct way to that

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1 observation, and we've had this discussion before, but just
2 to sort of put it back on the table, it is essentially
3 impossible for any operator to give notice to owners in
4 100,000 acres at a ti...at one time, to do all that title,
5 which is not complete and to, you know...so, to notify
6 everybody in the Oakwood field at one time, which is, you
7 know, a 100,000 plus acres because we keep extending it, it
8 might be 140,000 acres, if that's your preference as a Board
9 to, you know, the mechanism that we have used in the past is
10 that you can do that by publication and notice and we can
11 assist by giving operators that we're aware of and coal
12 owners and so forth notices. But if that is a preference,
13 and I wouldn't have a problem with that...you know, I think
14 that's a legitimate issue that we need to address at some
15 point because you're getting the piecemeal sort of thing.

16 BENNY WAMPLER: That's what I said. I'm just
17 giving you a hint that we're going to go that route.

18 MARK SWARTZ: But there is an impediment to that...
19 you know, just a practical impediment that you would have
20 to---.

21 BENNY WAMPLER: Well, we understand and we've
22 agreed on the notice issue before.

23 MARK SWARTZ: Okay.

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1 BENNY WAMPLER: And I don't anticipate---.

2 MARK SWARTZ: I mean, we've done that before.

3 BENNY WAMPLER: ---that that part would be a

4 problem. We...we need to continue to find ways to make sure

5 everyone that is...could be impacted knows. But, of course,

6 individually you would notice on the individual units anyway.

7 So, we would go from there. But I...that was just a hint of

8 things to come.

9 MARK SWARTZ: Okay.

10 BENNY WAMPLER: Next is a petition from CNX Gas

11 Company, LLC for a modification of Oakwood I field rules to

12 allow for the drilling of an additional well in several

13 units. That is docket number VGOB-93-0216-0325-07. We'd ask

14 the parties that wish to address the Board in this matter to

15 come forward at this time.

16 MARK SWARTZ: Mark Swartz and Les Arrington.

17 BOB WILSON: Mr. Chairman, while people are coming

18 down, let me recognize for the Board that we received a

19 letter from the Street Law Firm, representing GeoMet, stating

20 opposition to this application. You should each have a copy

21 of that in your packet. I also received a letter yesterday

22 from Jewell Smokeless Coal Corporation objecting to the field

23 rules and I'll pass out a copy of that letter at this time.

24

1 BENNY WAMPLER: Come on down, gentlemen.

2 PHILLIP JUSTICE: While everybody is on the way
3 down, I'm Phillip Justice and, actually, I was going to ask
4 for a continuance. I talked to Mr. Arrington and Mr. Swartz
5 and, of course, they've...they have objected. I want to put
6 it on the record. I have been actually retained this morning
7 by Sara and Leslie Vandyke. I have not had an opportunity...
8 they do not have any paperwork with them. So, I would ask
9 the Board to consider this and granting me continuance, and
10 if anybody else wants to go in on it, and I will wait on your
11 decision.

12 TOM MULLINS: May it please the Board, I'm Tom
13 Mullins. I'm from the Street Law Firm in Grundy. I'm here
14 representing GeoMet Operating.

15 BENNY WAMPLER: I'll ask the other gentlemen to
16 introduce yourself for the record, please.

17 JOHN HOLLINGSHEAD: Yes, my name is John
18 Hollingshead. I work for GeoMet Operating. I'm co-engineer
19 in the Birmingham, Alabama office. I'm pleased to be here.

20 JEFF TAYLOR: My name is Jeff Taylor. I'm with
21 GeoMet Operating Company and project manager of Virginia and
22 West Virginia operations.

23 MIKE LEWIS: I'm Mike Lewis of Jewell Smokeless

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1 Coal Corporation. I'm a company engineer.

2 GEORGE MASON: My name is George Mason. I'm an
3 attorney representing the LBR Holdings, LLC.

4 ERTEL WHITT, JR.: I'm Ertel Whitt, Jr., engineer,
5 representing LBR Holdings, LLC.

6 BENNY WAMPLER: We have one request for a
7 continuance. Are you gentlemen okay to go forward at this
8 time?

9 TOM MULLINS: We're ready to go forward.

10 GEORGE MASON: We're going to go forward.

11 BENNY WAMPLER: We're going to go forward. Feel
12 free to move down. And what we'll do is as people speak.
13 We'll keep it orderly. We'll let Mr. Swartz go first and
14 then we'll hear from everyone. Have you stated your name for
15 the record? If you haven't stated your name for the record,
16 we still need to do that. Otherwise, we will allow you an
17 opportunity to speak. Mr. Swartz, you may proceed.

18 MARK SWARTZ: Okay. I'd like to incorporate Mr.
19 Arrington's testimony with regard to his employment and
20 the...and his employer's identity and registrations in
21 Virginia, if I could?

22 BENNY WAMPLER: That will be incorporated.

23
24
25

1 LESLIE K. ARRINGTON

2 having been duly sworn, was examined and testified as
3 follows:

4 DIRECT EXAMINATION

5 QUESTIONS BY MR. SWARTZ:

6 Q. Les, you need to state your name, again.

7 A. Leslie K. Arrington.

8 Q. What did you do to notify people that there
9 would a hearing on this petition for modification today?

10 A. We mailed by certified mail, return receipt
11 May 19, 2006 and it was published in the Bluefield Daily
12 Telegraph May 30, 2006.

13 Q. Did you file proofs with regard to mailing
14 and with regard to publication with Mr. Wilson?

15 A. Yes, we did.

16 Q. When you published, what did you publish?

17 A. The notice of hearing and location map.

18 Q. Okay. All right. And there's a map
19 attached to the...to the application, Exhibit A-1, is that
20 what was published?

21 A. Yes, it was.

22 Q. Okay. And is...is that a continuation of
23 trips that we've been making for the Board to allow for
24

1 infield drilling?

2 A. Yes, it is.

3 Q. And in fact, the map that you've got today,
4 the area in red on the map that is passed out to the Board
5 today is, in fact, is it not the area depicted on Exhibit A-1
6 to the application?

7 A. Yes, it is.

8 Q. Okay. And you've...you've provided a map of
9 that and you've also provided, I think, within the
10 application the effective...the affected units and you've
11 listed them?

12 A. Yes, we have.

13 Q. And is it true there are no partial units,
14 these are all the entire unit?

15 A. Yes.

16 Q. Okay.

17 BENNY WAMPLER: We want to get this labeled as an
18 exhibit.

19 MARK SWARTZ: Whatever is your pleasure.

20 BENNY WAMPLER: B?

21 MARK SWARTZ: That would be good.

22 Q. Okay. Mr. Arrington, did you either prepare
23 or caused to be prepared, the notice of hearing in the
24

1 application in regard to this matter?

2 A. Yes, I did.

3 Q. Okay. And did you, in fact, sign both of

4 those?

5 A. Yes, I did.

6 Q. Okay. We have...you have been here before,

7 have you not, with regard to other requests to modify the

8 Oakwood Rules to allow for infield drilling, is that true?

9 A. Yes, on numerous occasions.

10 Q. And are the occasions sort of summarized on

11 this map that we've passed out today?

12 A. Yes.

13 Q. Okay. Could you point to the areas that

14 we've been here and have been granted relief for infield

15 drilling?

16 A. Yes, it would be all the kind of steepled

17 patterns around the edges that we've been here before on.

18 Q. Okay.

19 A. And this is...this lighter steepled pattern

20 is areas that we had infield drilled previously---.

21 Q. Because of mining?

22 A. ---according to the mining.

23 Q. Because of Mining. So, the sort of tweedy

24

1 looking or whatever sort of around the perimeter of that, is
2 when we've been here before?

3 A. Yes, it is.

4 BENNY WAMPLER: This area here. I'm showing them
5 and getting you to confirm this is what you're talking about
6 now?

7 A. Yes.

8 Q. Which kind of comes around the mined area?

9 A. Yes, it does.

10 Q. And we have provided, from time to time,
11 have we not, production information relevant to some testing
12 and data that we've organized concerning the infield
13 drilling?

14 A. Yes, we have.

15 Q. All right. If we take the production
16 information in the center, which is called the purple area
17 infield---?

18 A. Yes.

19 Q. ---right, is that from the mining?

20 A. It's from the area that we infield drilled
21 due to mining.

22 Q. Okay. So, that would have been the earliest
23 data?

24

--

1 A. Yes, it was.

2 Q. And then we have additional data as we sort
3 of work our way around, which shows the impact or at least
4 causes people to speculate as to the impact of infield
5 drilling and production, correct?

6 A. Yes, it does.

7 Q. And what is...what is the effect that it has
8 been, in general, your experience that infield drilling in
9 these areas has had in the production from existing wells, in
10 general?

11 A. In general---.

12 TOM MULLINS: Objection. Generalities are fine,
13 but I...I think we should limit it to areas in and around the
14 area sought to be modified.

15 BENNY WAMPLER: Well, I think I'm going to overrule
16 the objection and let him make the...you know, make the case
17 so of what their experience to date has been.

18 Q. Well, each of these graphs on Exhibit B has
19 an arrow, does it not?

20 A. Yes, it does.

21 Q. Which sort of identifies what?

22 A. The specific area that that graph----?

23 Q. ---or data pertains---?

24

1 A. Yes.

2 Q. Okay. So, we can tell from the graphs where
3 the data or where the well data...the wells are located that
4 the data was derived from?

5 A. That's correct.

6 Q. Okay. And what is it that CNX's experience
7 has been with infield drilling and the effect of infield
8 drilling on existing wells at the time of the infield
9 drilling?

10 A. Okay, at the time of the infield drilling,
11 what we experienced was the existing well production came up,
12 and not only did it come up, but the new well would also be
13 approximately the same production rate.

14 Q. If...let's stay with the purple infield
15 area, which would have been the earliest data. The...the
16 gray were which wells, the earlier wells or the later ones?

17 A. The gray is the earlier.

18 Q. Okay. And you can see that the production
19 from those wells had kind of leveled off?

20 A. Yes, they had.

21 BENNY WAMPLER: Mr. Swartz, are you talking about
22 this chart for those of us that may be color blind?

23 LESLIE K. ARRINGTON: Oh, I'm sorry.

24

--

1 MARK SWARTZ: Right. Correct. Yes.

2 LESLIE K. ARRINGTON: Yes, I'm sorry.

3 Q. And so we've got the initial well starting

4 furthest to the left, right?

5 A. Yes.

6 Q. And production goes up---?

7 A. Yes, it does.

8 Q. ---and then it starts to come down, it looks

9 like it leveled off a bit?

10 A. Right.

11 Q. And then the...the...there is another set of

12 wells starting in it looks like June of 2000?

13 A. Yes.

14 Q. And those spiked up and do they start higher

15 with more production then the original wells?

16 A. Their average production actually started

17 out higher.

18 Q. Okay. And...and as the new wells continued

19 producing, what happened to the production collectively from

20 the existing wells?

21 A. The existing and the new wells kind of

22 leveled out at about the same production rate.

23 Q. Okay. But did the existing wells production

24

1 go up, go down or stay the same?

2 A. The existing came up, I'm sorry.

3 Q. Okay. Now, if we look at the orange area

4 infield study, okay, can you tell the Board whether or not

5 you saw a similar response?

6 A. There was a similar response there.

7 Q. Not identical, but similar?

8 A. Correct.

9 Q. Now, if we look at the...AV-114 area infield

10 study, there's obviously something completely different going

11 on here?

12 A. Yes, it was.

13 Q. Okay. What's your understanding of the

14 problems depicted in that graph?

15 A. And you're pointing to the one on the south?

16 Q. Right, the AV-114 area infield.

17 A. Well, we had some closer spacing there at

18 that point in the AV-114 area.

19 Q. Okay. And the...this graph certainly looks

20 considerably different than the other three?

21 A. Yes, sir, it does.

22 Q. Okay. Now, let's go over to the green area

23 infield study area. And is it your view that you saw a

24

1 similar response with regard to existing production and with
2 regard to greater production from the new wells?

3 A. We did.

4 Q. Okay. Why...why is it that...and it might
5 seem obvious but I'm going to ask the question, why is it
6 that you are seeking to drill additional wells or do infield
7 drilling in the units that would be affected by this
8 application?

9 A. Well, we feel like the same...we feel like
10 we can obtain the same type of production as we've seen in
11 the other areas.

12 Q. Okay.

13 TOM MULLINS: Objection. That's speculation. He's
14 not in the position to testify as to that.

15 BENNY WAMPLER: Sustained.

16 Q. Why would you...why would your company be
17 willing to commit, you know, \$200,000 per well plus to do
18 infield drilling here? What...what's the economic decision,
19 if any?

20 A. Well, from what we've experienced---

21 TOM MULLINS: Objection. That's simply another way
22 to ask the same question.

23 BENNY WAMPLER: I'm going to overrule that one
24

1 because in these kinds of proceedings, we're not going to go
2 by the strict rule of evidence and we're going to let him go
3 forward and explain that. I agreed with your first one
4 because it was general. This, he's asking specifically and I
5 think we need to hear that.

6 A. In the existing wells that we have over
7 here, we've seen the same type of geology as we've seen in
8 other areas that we've done this. So, we feel that we can
9 drill the infield drilling...do the infield drilling in these
10 areas and economics.

11 Q. And see the kind of response that's depicted
12 in at least three out of---

13 A. Right. That's correct.

14 Q. ---the data charts?

15 A. That's correct.

16 Q. One of the letters that came into the Board
17 was from Jewell Smokeless?

18 A. Yes, sir.

19 Q. Could...could you talk a little bit about
20 your relationship with Jewell Smokeless over the years?

21 A. Yes. I hope, and I hope Mr. Lewis who is
22 here, can reiterate this, I work very closely with the coal
23 operators and...that we drill wells in and around and,

24

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1 hopefully, all of the well locations up front will be worked
2 out before we get there and including pipelines that may be
3 on areas that they own the surface or control the surface.
4 Again, I felt...feel that we have a very good relationship
5 there.

6 Q. Is...is Jewell Smokeless in and under some
7 of the areas that we've already done infield drilling in?

8 A. In particular, this north...north western
9 area they were in.

10 Q. And...and in that northwestern area, did you
11 need to get Jewell Smokeless' agreement to every infield
12 well?

13 A. We signed agreements on each well.

14 Q. And it's something that you work out with
15 them?

16 A. Yes, it is.

17 Q. Would you expect that you would be doing
18 that in the red area as well?

19 A. Yes, sir, it is.

20 Q. And has it been your...strike that. Do you
21 have copies of Jewell's mine maps that you can use when you
22 plan your wells?

23 A. Yes, we do.

24

--

1 Q. So, you actually look at those before you
2 come up with proposed locations and visit with him?

3 A. We look at...I use his mine projections to
4 lay out the wells---.

5 Q. And then you go visit with him?

6 A. We work out agreements.

7 Q. Okay. And, you know, you need to have his
8 agreement---?

9 A. Absolutely have to have his agreement.

10 Q. ---or you're going nowhere?

11 A. That's correct.

12 Q. With regard to....let's just talk about
13 correlative rights issues for a moment.

14 A. Okay.

15 Q. And that is, you know, making sure that
16 everybody gets their fair share and maximizing their
17 share---.

18 A. That---.

19 Q. ---is that your understanding?

20 A. Yes, sir.

21 Q. Okay. What is your view with regard to the
22 affect that infield drilling has had in these areas on
23 correlative rights?

24

1 A. Everyone is very well protected. They all
2 get their allocated proportion no matter what the production
3 is. I mean, the gas is metered. Everyone gets protected.

4 TOM MULLINS: Just...I know the Board has ruled.
5 I'm just going to note a continuing objection to the general
6 statements that have nothing to do with the area being sought
7 where the well is being built.

8 BENNY WAMPLER: That's noted.

9 Q. With regard to the affect that infield
10 drilling has had on revenue to royalty owners and
11 participants, would you comment on that in terms of whether
12 it has had an affect on revenue and their revenue stream?

13 A. Absolutely, it does. They get more revenue
14 faster.

15 Q. Okay. Now, we...we have a process that the
16 Board has asked us to follow with regard to well
17 locations---?

18 A. Yes.

19 Q. --in this area, and what is it that you have
20 followed in the past and what is it that you would propose to
21 follow with regard to these units in the event that you are
22 allowed to do infield drilling?

23 A. The additional well will be within the
24

1 drilling window.

2 Q. Is that something the Board has been very
3 affirmative---?

4 A. Yes.

5 Q. ---about and that we have...we have
6 followed?

7 A. Yes, it has.

8 Q. And so that would continue here?

9 A. Yes, it would.

10 MARK SWARTZ: I think that's all I have of Mr.
11 Arrington at this point.

12 BENNY WAMPLER: Questions from members of the Board
13 of Mr. Arrington?

14 MARY QUILLEN: Mr. Chairman, I have one question.
15 I believe Mr. Arrington stated that you do work with the coal
16 operators or who has the...whoever owns the coal, is mining
17 the coal, before you can drill a well, is that correct?

18 LESLIE K. ARRINGTON: Yes, ma'am, we do. And we
19 sign individual agreements on each well.

20 MARY QUILLEN: And the third paragraph in the
21 letter from Jewell Smokeless is...states that this would
22 cause undue financial and economic circumstances in the
23 mining operations and planning, but if you work together to
24

1 do this and you look at their mining maps, how would these
2 additional wells impact that, their ability to mine that
3 particular area?

4 LESLIE K. ARRINGTON: As it stands now, I work...I
5 work those wells individually. I'll let Mr. Lewis speak to
6 that. But we do individual agreements. I try to locate the
7 wells in such a location that they can mine around it easily.
8 I'm certainly not going to take mine safety lightly.

9 MARY QUILLEN: Okay. That...I was just seeing if
10 it conflicted with this third paragraph in that from Jewell
11 Smokeless.

12 BENNY WAMPLER: Thank you, Ms. Quillen. Any other
13 questions from any other members of the Board of this
14 witness?

15 BOB WILSON: Mr. Chairman.

16 BENNY WAMPLER: Mr. Wilson.

17 BOB WILSON: ---one other procedural thing. Did
18 you...does part of your proposal also maintain the 600 foot
19 minimum distance between wells if this were to be allowed?

20 LESLIE K. ARRINGTON: It can.

21 BOB WILSON: Thank you.

22 BENNY WAMPLER: Mr. Mullins.

23 TOM MULLINS: Thank you, sir.

24

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1

2

CROSS EXAMINATION

3 QUESTIONS BY MR. MULLINS:

4 Q. What does it cost per well to drill?

5 A. It varies. It can be 210 to 300,000.

6 Q. I think the three that are next on the
7 docket are about 230 to 240, is that correct?

8 A. Most likely, yes. I don't remember numbers.

9 Q. Okay. And is the cost of infield drilling
10 any less?

11 A. Not really, other than you may have some
12 savings on site costs due to access roads already being
13 there.

14 Q. Okay. Now, when you talk about the
15 additional wells impact because they get more return quicker
16 it's also with doubled the cost?

17 A. Yeah, it would be double our cost, yes.

18 Q. Okay. Now, how much...what's...how much gas
19 is in each unit...80 acre unit?

20 A. In mos...we estimate somewhere in the
21 neighborhood of 500...I can't remember...125 to 550 mcf.

22 Q. Okay. And in the previous applications
23 you've had before this Board, you've testified universally on

24

--

1 80 acre units that one well was adequate to produce the
2 entire 125 to 550, isn't that true?

3 A. We have testified to that before, yes.

4 Q. Is it your testimony that the wells...single
5 wells in these 80 acre units are not adequate to drain those
6 80 acre units?

7 A. They will drain that 80...that one single
8 well will drain that 80 acre unit in time.

9 Q. So, basically, there's no increase in the
10 reserves in those 80 acre units? You're going to produce the
11 entire 125 to 550?

12 A. We're going to produce the reserves in that
13 unit.

14 Q. I believe, your applications say you will
15 produce the entire reserve 125 to 550?

16 A. That we will produce that unit, yes.

17 Q. So, that would drain it...one well would
18 drain it dry?

19 A. In time.

20 Q. Okay. Now, what kind of core drilling do
21 you have in this area?

22 A. I don't have that data with me, sir. I
23 really can't answer that. I...I am anticipating drilling a

24

--

1 core hole in this area.

2 Q. Haven't core samples been taken in this
3 area?

4 A. I believe they have. I do not have that
5 with me.

6 Q. All right. Is that information...was it not
7 available to you in making this application?

8 A. Yes, it was, but I didn't need it.

9 Q. Okay. Wouldn't that tell you the
10 information concerning the coal seam thicknesses and other
11 information that you would need to know what production rates
12 would be from anticipated wells?

13 A. It will tell you that, yes.

14 Q. Okay. And that's not available today before
15 this Court?

16 A. I didn't need it today.

17 Q. You...you didn't feel like you needed that
18 today?

19 A. Right.

20 Q. Now, in these other areas that you've
21 testified about that we've looked at the production rates,
22 are...what's the geological structure underlying those
23 wells...those areas that have already been permitted for
24

1 infield drilling?

2 A. Explain what you mean by geological. What
3 are you...what are you looking for?

4 Q. I'm looking for a geological analysis of
5 what was underlying those, so I can compare those to the area
6 being sought.

7 A. So, apparently you're looking for the
8 Pocahontas formations. Is that---?

9 Q. I'm looking for the geological information
10 in which would lead this Board to say, that based upon that,
11 it is either good or bad to allow higher density drilling.

12 A. Okay. It's the same coal formations as...as
13 we've experienced on all the other areas. Some of the coals
14 may be thicker and some of them may be thinner. But it...in
15 general, it's the same formations.

16 Q. What about fault lines?

17 A. Fault lines, there's none in that area.

18 Q. There's none in--?

19 A. In the red area.

20 Q. Okay. Why don't you show me where the red
21 area is?

22 MARK SWARTZ: It's red.

23 A. Yeah.

24

1 TOM MULLINS: I want him to show it to the Board,
2 please.

3 A. In this area there's no faults per say.

4 Q. What about these other areas that I just
5 asked you about, is there fault lines in those?

6 A. Only in one.

7 Q. In which one?

8 A. There's only one fault and it runs basically
9 up through where it says the Middle Ridge area and it kind of
10 dissects up to the northwest.

11 Q. So, it comes through or close to these two
12 areas here, if I'm not misunderstanding?

13 A. I'm not sure. It runs basically diagonally
14 through where it says Middle Ridge Field up toward where it
15 says Oakwood Field.

16 Q. So, what impact or are you capable or do you
17 know what impact the fault line would have on the geological
18 production of those wells?

19 MARK SWARTZ: Of the red area?

20 TOM MULLINS: No, in the other areas that he's
21 using it to compare it to convince the Board to allow infield
22 drilling.

23 A. Well, quite honestly, I don't think we've
24

1 seen anything there. If we did it was very little.

2 Q. What is your background, are you a
3 geologist?

4 A. No, sir, I am an engineer.

5 Q. Okay. In what field of engineering?

6 A. Civil.

7 Q. What is the additional rate of return per
8 unit of gas mcf for infield wells? How much...how much do
9 you make for the additional production you get for the
10 additional costs you go to?

11 A. I don't have that data with me.

12 Q. So, you can't tell us today how much more it
13 costs and how much you'll make on a margin for the additional
14 infield drilling wells?

15 A. No.

16 Q. And I think your application includes unit
17 C-47, is that correct?

18 A. I'd have to look to be specific. Yes, it
19 does.

20 Q. Are you aware that GeoMet already has a well
21 in that unit?

22 A. No. If they do, they could possibly put
23 another well, if they had one.

24

1 Q. And you could too?

2 A. If I had a problem---.

3 Q. And that's what you want?

4 A. Yeah. Sure.

5 Q. You're here to get wells?

6 A. That's right. Production.

7 Q. Okay. What's the life of the unit for two

8 wells?

9 A. I'm sorry?

10 Q. The life of a unit with two wells based upon

11 what you've testified here before the Board on your

12 experience?

13 A. On our experience we would hope to get 20 to

14 30 years out of them.

15 Q. What's the life of an 80 acre unit with a

16 single well?

17 A. 30 years.

18 Q. Okay. Have...is there a variance between

19 well to well...on the life?

20 A. On life, absolutely there is.

21 Q. There is variance from well to well period,

22 is that correct?

23 A. Yes, there is.

24

1 Q. How far does a fracture or frac job travel?

2 A. It can be anywhere from 300 feet up to maybe

3 1,000. Effective length is probably 500 feet.

4 Q. Haven't there been occasions in the Oakwood

5 field where it has gone 1500 feet?

6 A. I believe there has.

7 Q. And would high density drilling not increase

8 the risk of intruding upon adjoining units?

9 A. But you're only going to increase

10 production.

11 Q. Would additional wells that are stimulated

12 or fractured, would that not increase the risk of going

13 beyond the unit boundary and producing gas from an adjoining

14 unit?

15 A. Again, you will see that. You will increase

16 production.

17 Q. I know you'll be increasing production, but

18 it will be somebody else's gas, true?

19 A. It could be.

20 Q. Okay. Are you familiar with an evaluation

21 of impact that...to underground sources of drinking water

22 done by the EPA?

23 A. That was done some time ago, a couple of

24

1 years ago.

2 Q. It's dated June '04?

3 MARK SWARTZ: That's a couple of years.

4 A. Yeah.

5 Q. And they specifically looked at some of the

6 stimulation or frac jobs that was done in the Central

7 Appalachian Basin. Are you familiar with that?

8 A. I don't have the document before me. It has

9 been a while since I've read it.

10 Q. Okay. Would you like to look at it?

11 A. I don't see what relevance it has to this.

12 Q. I can tell you.

13 MARK SWARTZ: Maybe that would accelerate the

14 process.

15 TOM MULLINS: Sure, I'd be happy to. It talks

16 about the distance of fracs in this area and how far they

17 travel underground. That's the relevance.

18 A. Okay.

19 Q. Would you dispute that that go to 1500 in

20 length?

21 MARK SWARTZ: He's already answered that question

22 affirmatively.

23 Q. Well, as long as it's agreed to. What's the

24

1 mine plan in this area for the coal operators in this area?

2 A. Well, Jewell Smokeless, Mike Lewis, can
3 answer you about his mine plan, I do have his mine plan, and
4 the reason we have not infield drilled this area is there is
5 no active Pocahontas No. 3 mine seam plan at this time.

6 Q. So the requirement that you submit a mine
7 plan for Pocahontas No. 3, it's your testimony here today
8 there is no active mine plan for that seam by Consolidation
9 Coal Company?

10 A. At this time, there is not.

11 Q. Are you familiar with the (inaudible)
12 direction in this area that you're asking to be infield
13 drilled?

14 A. I am somewhat. Not enough to testify to
15 that.

16 Q. Okay. So, you're not able to predict in any
17 shape, form or fashion the direction of any fracs?

18 A. Predict the direction of the fracs, it's
19 generally on north 30 east.

20 Q. Do you have any data from this area?

21 A. No, we do not.

22 Q. Now, we've got chart data here on
23 productions on areas for which you have infield drilled. Do
24

1 you have similar information about areas not infield drilled
2 so we can compare with what the single wells have done that
3 weren't infield drilled over the life of the same period of
4 time to these wells?

5 A. I don't have any graphs, but that...that
6 data is available at the Gas and Oil office.

7 Q. You would agree that if the frac job
8 penetrated into another unit that that would not protect the
9 correlative rights of the owners of that other unit, wouldn't
10 you?

11 A. Yes. And that would also be true for all
12 other operators.

13 Q. Well, we're specifically talking about
14 infield drilling.

15 A. It doesn't matter which well you're speaking
16 to whether it's infield or---.

17 Q. Would you agree that multiple wells in a
18 unit would increase the likelihood of that?

19 A. As long as we infield all units, that's not
20 a problem.

21 Q. So, your...your plan is to infield the
22 entire Oakwood 1 pooling...pool?

23 A. For as much as we can.

24

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1 Q. Then, I guess, it goes back to the
2 Chairman's question, why not do the whole pool instead of
3 doing it here...this is the fourth piece or the fifth piece?
4 A. Certainly. It's called notice issues.
5 Q. I'm sorry?
6 A. It's notice issues.
7 Q. Could you not make a motion before the Board
8 asking them to do that?
9 MARK SWARTZ: You could too.
10 TOM MULLINS: If I wanted to.
11 MARK SWARTZ: Right.
12 A. I mean, it has been our experience, we have
13 to do this on our own and that's what we've been doing.
14 TOM MULLINS: I don't believe I have any more right
15 now Mr. Chairman.
16 BENNY WAMPLER: Mr. Lewis? State your full name
17 and who you're with.
18 MIKE LEWIS: Michael Lewis, Jewell Smokeless Coal
19 Corporation. And---.
20 COURT REPORTER: Mike, I need you to raise your
21 right hand to be sworn please.
22 (Mike Lewis is duly sworn.)
23 MIKE LEWIS: Jewell Smokeless is not against
24

1 development of oil and gas, coal land and timber or whatever.

2 Our concern is the detrimental affect in relation to mining.

3 I want to reiterate Mr. Arrington's statement. Mr.

4 Arrington himself is excellent to work with. However, our

5 concern is we're getting 50 some wells a month probably. We

6 don't have the manpower and the personnel to go look at all

7 these and spot them on the maps and change projections in

8 mines and so forth.

9 We have three active mining locations in this

10 particular unit we're discussing. And I apologize to

11 everyone on a timely manner, I didn't have time to prepare

12 everybody a map, but I will kind of hold this up. The red

13 ...red outline as you see is the units that we're talking

14 about. These in the grid is the particular units with each

15 80 acre agreement. This is an active mine of ours. It's a

16 contract mines, which we're going to...currently developing

17 it to have two unit mines in. We have a mine down here, a

18 tiller mine that has two units in it, several people working,

19 three shifts a day. And as you see, all these circles are

20 current wells. And in development of these projections and

21 so forth we have to try to dodge these locations. Say for

22 example, if we all get spread out in front and our belt line

23 was going in that direction, you have no alternative other

24

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1 than to try to move that belting and so forth. The ideal
2 situations in a mine is 3,000 foot belt (inaudible). That's
3 the distance a normal belt to go before you can add another
4 piece of that belt.

5 If wells are placed or multiple wells in these
6 particular areas and should....they can't be worked out by a
7 mutual agreement, we would have a avenue to protest other
8 than each individual well that's permitted. Okay, for
9 example, and I asked the Board to maybe consider...we do now
10 work with virtually gas company in our area. We do do
11 stipulation letters with those gas companies in regard to the
12 drilling of those wells, liabilities and so forth, a 48 hour
13 notice in an old section of a mine. We have to...when a well
14 is drilled into a gob area of the mine, we have additional
15 checks and so forth that has to be made in that mine. I'm
16 sure the gas company would probably have to have a permit to
17 do so. All these things associate with that, our time and
18 money that is lost to us in regard to that situation.

19

20 Our main concern is the amount of wells that is
21 getting permitted is being able to keep up with them. If you
22 are missed noticed, a well could be placed down in an area
23 where there could be activity. And, I think, Mr. Director

24

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1 can go by passed experience that these things have happened.
2 That's our main concern. And if..we...we need some kind
3 of...I don't know if there's any better way of working with
4 your people to protect this, but if we do all these...all
5 these additional wells, you know, it's going to slow us
6 somewhat in our development. We have no problem with trying
7 to work with any gas company or oil company or who it might
8 be. As a matter of fact, Jewell Smokeless is owners in an
9 oil corporation. However, these areas...and on this map we
10 have strip mining and once a pipeline is put across the strip
11 mine or on it or over it, you just can't get around on it. I
12 guess, our avenue is we need a little bit more assurance on
13 our stipulation letters, and I think Mr. Director will
14 reiterate, if I meet with Les or any...or Jeff or any of
15 these other gas companies and we have these letters executed,
16 that has no bearing on what the decision will be made on that
17 application. In once sense, if we do a stipulation letter
18 and we send them and we say we're going to approve it,
19 somebody gets a letter, and we're not going to sign it.
20 We've missed the opportunity to make objection. So, I guess,
21 the only other avenue we will have is to object to
22 everybody's and be over here every day. So, our concern is
23 the amount of wells. I guess...I don't know...everybody is

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1 trying to cooperate, but I guess we need more assurance
2 to...should we pre-agree to these locations instead of
3 calling for a hearing and so forth. But those letters of
4 stipulation would either be filed as an objection if they
5 don't sign them or our approval if they do sign them.

6 I've not shown on the map, we have several other
7 areas in this general vicinity that we are currently
8 evaluating that are confidential to the general public and
9 this particular area is one of our livelihood areas for
10 probably the next ten years. And the more activity that is
11 up there, the harder it is for us to mine. And, I guess, I'm
12 open for any questions.

13 BENNY WAMPLER: Any questions from members of the
14 Board?

15 (No audible response.)

16 BENNY WAMPLER: I think, we certainly sympathize
17 with the issue and certainly have concern. I also have the
18 Division of Mines under my area of responsibility and I know
19 we certainly are concerned about communication particularly,
20 and that's what you're talking about here.

21 MIKE LEWIS: Correct. But, you know, the more
22 wells that are there, the more hardship it is for us.

23 BENNY WAMPLER: This is Exhibit C. Mr. Mason?

24

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1 GEORGE MASON: I just have one question to that.
2 So, from your perspective as a coal operator, the optimum
3 development would be to have one well per unit then rather
4 than several wells per unit?
5 MIKE LEWIS: Our preference would----.
6 MARK SWARTZ: Optimum would be zero.
7 MIKE LEWIS: Yes, the optimum would be zero with no
8 pipelines.
9 MARK SWARTZ: Understood. Absolutely.
10 GEORGE MASON: One other thing is...I don't have
11 any questions for Mr. Arrington. I just want to make sure
12 that...I'm here on behalf of LBR Holdings, LLC and I just
13 want to make insure that the Board knows that we adopt the
14 objections that have been previously filed with the letter
15 dated June the 5th by GeoMet Operating. We adopt those
16 objections and the reasons behind it, as on our own, we fully
17 support the objections that they have provided to the Board.
18 TOM MULLINS: If I didn't say so, I want to include
19 those as part of my objection as well.
20 BENNY WAMPLER: The June the 5th letter?
21 TOM MULLINS: Yes, sir.
22 BENNY WAMPLER: We have that. Am I missing anyone?
23 Anyone else wish to talk?

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1 TOM MULLINS: Well, before we put on any evidence,
2 I'd like to make a motion to strike. I don't think they've
3 established their prima facie case to modify the field rules
4 to allow additional infield drilling. I don't think there's
5 enough information before this Board to allow it to make an
6 informed decision. In fact, the evidence is to the contrary
7 that it would not protect correlative rights, that there
8 could be a danger transferring stimulations across different
9 units. We have the same production per well that as been
10 testified to by Mr. Arrington on multiple occasions before
11 this Board. And that motion to strike, if ruled upon by the
12 Board, would ovate the need to present additional testimony.

13 BENNY WAMPLER: I'm going to overrule the motion to
14 strike based upon the fact that the Board has approved
15 previous infield drilling and to...with similar evidence and
16 to say that that's not adequate evidence wouldn't...wouldn't
17 be consistent with how the Board has rule.

18 TOM MULLINS: I'd like to call Mr. Hollingshead
19 then.

20 (John Hollingshead is duly sworn.)

21

22 JOHN HOLLINGSHEAD

23 having been duly sworn, was examined and testified as

24

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1 follows:

2 DIRECT EXAMINATION

3 QUESTIONS BY MR. MULLINS:

4 Q. I think you've already stated your full
5 name. Where do you work?

6 A. I work for GeoMet, Incorporated in
7 Birmingham, Alabama.

8 Q. And what is your job there?

9 A. I am a Petroleum engineer, specializing in
10 reservoir engineering tasks.

11 Q. And where did you get your education?

12 A. University of Alabama.

13 Q. Okay. And what was that degree in?

14 A. Petroleum Engineering.

15 Q. And do you have any other professional
16 certifications or licensures?

17 A. Yes, I'm registered professional engineer in
18 the State of Alabama. I'm also a member of the Society of
19 Petroleum Evaluation Engineers and the Society of the
20 Petroleum Engineers.

21 Q. And how long have you been engaged in the
22 practice of engineering?

23 A. 16 or 17 years plus.

24

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1 Q. Are you familiar with the area that is being
2 asked for a statewide spacing exception?

3 A. Yes, I am.

4 Q. I'd like to ask you some questions about
5 that. In your field, are you...first let me ask you this,
6 what is a cleet?

7 A. A cleet is a natural fracture that is
8 created during the coalification of the process of coal.
9 Primarily, the first cleet that develops is the face cleet,
10 which runs in one direction, and then other cleets are
11 formed, which are called the butt cleets which typically run
12 perpendicular to that generally do not cross over the face
13 cleet direction.

14 Q. Is that like cracks?

15 A. It is.

16 Q. Okay. And why is that important to a
17 engineer...petroleum engineer?

18 A. Typically, it has great importance because
19 it's avenues for the gas molecules to be able to desorb out
20 of the coal itself and migrate toward the hydraulic fracture
21 that we typically put in coalbed methane wells.

22 Q. And in the Oakwood Field, based upon the
23 information available to you, is the cleet structure and
24

1 direction uniform?

2 A. Yes. Actually, if I can reference---.

3 Q . Sure.

4 A. There was a 1998 inter...International
5 Journal of Coal Geology where some gentlemen, S. E. Leblock
6 and several others, went through and basically did a study of
7 the Southern West Virginia area. Basically, they did a cleet
8 study trying to identify what the cleet direction was in this
9 area of the field, which this would show the very southern
10 tip which would be down in the area that we are active at.
11 And based off of their study, the face cleet direction was in
12 a southeast to northwest direction. And typically,
13 disregarding any other secondary-type stresses that may have
14 occurred, just talking strictly on (inaudible) stresses that
15 occurred during the coalification of the coal, if you were to
16 go out here and hydraulically fracture those wells, it would
17 want to try to go down the face cleet direction. And so,
18 therefore, not knowing any more than that, you would think
19 that if you had an offset drilling unit adjacent to
20 a...somebody else's drilling unit, the direction...as long as
21 they were in a northwest direction, there's a possibility
22 that they could frac into it.

23 Q. Okay. Now, you've prepared some charts and

24

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1 graphs. What is that figure 3-3 represent?

2

3 A. Actually, that's a...this is also referring
4 to the EPA...the EPA report was EPA number 816-R-04-003.
5 And, again, it was a evaluation of impact to underground
6 sources of drinking water by hydraulic fracturing of the
7 coalbed methane reservoirs. And, basically, what the EPA
8 have done, they had gone around to basins all over the United
9 States...coal basins. What their concern was was the fresh
10 water zones and the impact or potential impact that hydraulic
11 fracturing could do to these fresh water zones. And in
12 Chapter Three, this is just a little schematic, basically
13 showing the long continuous face cleft directions and the
14 butt cleft directions that intersect those face clefts.
15 Another little cartoon is just cute...pretty much any
16 underground rock, coal or sandstone, basically, you have
17 three different stresses that are being applied on it. One
18 vertical and two on the horizontal plane. One being a
19 maximum direction, the other being a minimum direction. And
20 as long as the vertical stresses is more than the two minimum
21 ones you are going to contain yourself from your frac going
22 up. Typically what happens is, your frac wants to grow in
23 your maximum stress direction, which sounds just opposite of

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1 what it should do. But, basically, if you could think of
2 yourself, and this is another little cartoon, basically, we
3 drilled a well bore we're down into the coal seam and then we
4 get Halliburton or (inaudible) or any assortment of other
5 stimulating companies out there to perform a frac job, we
6 hydraulically break down that coal seam. And, basically, the
7 minimum directions are coming in one way and the maximum in
8 the other way. Once you apply that pressure, the minimum
9 direction is wanting to part...come apart and basically grow
10 down the maximum stress direction. And it can tie you back
11 to this previous cartoon that showed the face cleat
12 direction. Well, I mean, our units are directly offsetting
13 the ones that are being proposed today in a northwest
14 direction. And it was already stated earlier today that in
15 the same EPA study that there is a potential for fracs to
16 grow 1500 feet. Well, our wells are certainly...a
17 possibility of those wells being within that 1500 feet range
18 and it is of our concern to be protective of our correlative
19 rights, not only ourselves but our royalty owners as well.
20 So, that's pretty much it.

21 BENNY WAMPLER: Let me...let me say for any of you
22 that are here for, you know, other cases, just as a moment
23 here to make you aware, we're going to take a break, the

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1 Board is, after we decide this case for about forty minutes,
2 a short period as we can and rehear. So, if you want to bail
3 and get lunch or something you're welcome to do that or
4 you're welcome to stay. If you leave, please do it quietly.
5 Go ahead.

6 (Counsel confers with the witness.)

7 JOHN HOLLINGSHEAD: And I'll leave you all these
8 cartoons. I had a copy. I just didn't get them out to you.

9 BENNY WAMPLER: I'll make them as D, E, F and
10 whatever...whatever number you've got there. We'll just
11 proceed down the alphabet.

12 BENNY WAMPLER: Any questions of members of the
13 Board of Mr. Hollingshead?

14 (No audible response.)

15 BENNY WAMPLER: I'll ask you one. Are they wells
16 that you're concerned about in Virginia?

17 TOM MULLINS: Yes, there are.

18 JOHN HOLLINGSHEAD: Yes, there are.

19 BENNY WAMPLER: Because, you know, that's the only
20 place we can make decisions about.

21 JOHN HOLLINGSHEAD: Sure.

22 MARY QUILLEN: Are these...these are sorted right?

23 JOHN HOLLINGSHEAD: Yes, they are in the direction
24

1 that they came.

2 Q. Specifically, C-47 also...already has a
3 well drilled by GeoMet, is that correct?

4 A. That is correct.

5 Q. But you...but GeoMet has interest in a
6 number of the offsetting units, is that true?

7 A. That is true.

8 BENNY WAMPLER: Mr. Swartz.

9

10 CROSS EXAMINATION

11 QUESTIONS BY MR. SWARTZ:

12 Q. What's the purpose of field rules?

13 TOM MULLINS: Objection. That goes beyond the
14 scope of my direct examination and there's nothing here that
15 I've introduced through this gentleman that says he has read
16 the definition of field rules. He's testified as to geology
17 and what can happen. That's a whole different question.

18 BENNY WAMPLER: I'll overrule the question.

19 A. What is the reason for field rules?

20 Q. Field rules, yeah. Why do we have field
21 rules?

22 A. Basically, to allow everybody to have a

23

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1 fair playing ground that is...give...gives the Board or the
2 agency...State agencies the ability to regulate various
3 operators that may be within that jurisdiction.

4 Q. So, one of the reasons to have field rules
5 is so that there's one set of rules for everybody. Do we
6 agree to that?

7 A. If I understand you, yes. There is one set
8 of rules for everybody as the reason for field rules.

9 Q. Well, that's only one reason for field
10 rules, right?

11 A. Uh-huh. That's correct.

12 Q. What are some other reasons for field rules?

13 TOM MULLINS: Just note a continuing objection to
14 this line of questioning.

15 BENNY WAMPLER: I'm just going to let him answer
16 based on what he thinks.

17 TOM MULLINS: I understand.

18 BENNY WAMPLER: He doesn't have to know what it
19 says in Virginia in particular.

20 A. Exactly. How..can you be more pointed about
21 what your question is?

22 Q. Well, is one of the reasons to have field
23 rules is not just to sort out disputes between operators, but
24

1 to treat royalty owners fairly. Would you agree to that?

2 A. I think anybody that would have mineral
3 interest would be affected by the field rules.

4 Q. Well, I'm not asking you if they're affected
5 by it. Is one of the reasons why government agencies like
6 the Virginia Gas and Oil Board adopt field rules is one of
7 their reasons typically to protect royalty owners in the
8 field?

9 A. I would think...that there are rules to protect
10 everyone that has mineral interests.

11 Q. And would you agree that the field rules are
12 a way to address questions regarding the fair distribution of
13 correlative rights?

14 A. Please ask that one more time.

15 Q. Okay. Is...are...is the implementation of
16 field rules a way for the government to protect royalty
17 owners in an area and try to ensure that they all get their
18 fair share of gas that's produced from the area.

19 A, I would agree with that. Field rules are
20 established to protect the correlative rights of all mineral
21 owners.

22 Q. Okay. And...and do you think that the...
23 well, do you have an opinion as to whether or not the Oakwood
24

1 1 rules, as adopted, actually protect the correlative rights
2 of the royalty owners in the Oakwood 1 field?

3 TOM MULLINS: Objection. His testimony has been
4 limited to the area which is sought. He has not expressed an
5 opinion across the entire Oakwood field and that is overly
6 broad.

7 BENNY WAMPLER: Go ahead and let him answer
8 the...answer the question. I think that this proposal is in
9 the Oakwood field and you...and his company has drilled in
10 the Oakwood field utilizing those rules.

11 TOM MULLINS: Okay.

12 A. Sure. As far as...are you asking the
13 question relative to 80 acre spacing or are you asking about
14 the infield that you're proposing today?

15 Q. Well, I'm asking about the existing Oakwood
16 1 rules, which I understand are 80 acre rules.

17 A. Okay. I just want...the proposal here, I
18 understand from what you're saying, is for drilling multiple
19 wells within these units. I'm just trying to clarify.

20 Q. My question for you is...well, let's assume
21 the Board says the heck with it, we're not going to allow any
22 more infield drilling. So, then we're back to Oakwood 1
23 straight up. And my question for you is, is it your opinion
24

1 that Oakwood 1, as implemented back in...I'm thinking it was
2 1990, is an appropriate way to protect the correlative rights
3 of royalty owners and to sort out disputes between operators
4 as it stands?

5 A. I really could not answer that question as I
6 have not read all of the field rules or the one...Oakwood 1
7 field. So---.

8 Q. Okay. I guess, what you're saying today
9 though is if the Board allows an op...allows operators
10 generally to drill two wells in the drilling window of the
11 existing Oakwood field units that are depicted in red, that
12 that would not be a fair way to deal with the correlative
13 rights of the people in the affected units?

14 A. Please reask that one more time.

15 Q. Okay. Are you telling us that if the Board
16 modifies the Oakwood rules in the red area to allow two wells
17 to be drilled in each unit, as long as they're in the
18 drilling window and as long as they're 600 feet apart, are
19 you telling th Board that if they do that that would be
20 unfair to the royalty owners in the red area?

21 A. I will say or give my opinion as to drilling
22 multiple wells within an 80 acre unit that is stipulated
23 within the rules, I think it is 300 feet from the setback of
24

1 the quarter and 600 feet between the two wells, that multiple
2 wells has an opportunity to drain beyond that barrier.

3 Q. Beyond the boundary?

4 A. Beyond the boundary if the stimulation of
5 that well or any well in there that extends past that
6 boundary.

7 Q. Okay. Your company could drill a well 303
8 feet off of any Oakwood 1 unit boundary, right?

9 A. That's correct.

10 Q. And would you agree that based on your
11 testimony with regard to frac lengths, that would virtually
12 guarantee that you would be draining from a neighboring unit?

13 A. There are no guarantees in oil and gas. I
14 mean, I would say---.

15 Q. Would that virtually guarantee?

16 A. I would say that there is a likelihood or a
17 possibility or potential transfer of molecules across those
18 boundaries.

19 Q. I guess where I'm coming from is, I'm not
20 asking you about the possibility in the sense that it's
21 possible the sun won't come up tomorrow. I'm asking you
22 about probabilities. You know, you're a reservoir engineer,
23 you're a petroleum engineer, I'm sure you've looked at frac

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1 designs and you maybe have even designed fracs, right?

2 A. I've been in...I've done pretty much all
3 phases of oil and gas.

4 Q. Okay. And would it be your testimony...I
5 mean, do you know enough about the Oakwood field to tell us
6 that unless there is something unusual going on underground,
7 a frac is going to probably get at least 500 feet?

8 A. Yes, typically, that is, you know, one way
9 that I have witnessed that wells are fraced into each other.
10 There has been a noticeable increase or a change in
11 production rates from other wells.

12 Q. But my question for you is, can...could we
13 assume as we sit here today that the typical frac job, absent
14 something bazaar underground in the Oakwood field, is going
15 to probably get a frac at least 500 feet from the well bore?

16 A. As I stated from the EPA report that Consol
17 Energy was...let me see here, this was Pocahontas Oil and
18 Gas. I'm sorry, it's not CNX. But they invited EPA
19 personnel to a well where a hydraulic fracturing treatment
20 was being performed by Halliburton Energy Services.
21 Halliburton staff said that typical fractures extend from 300
22 to 600 feet from the well bore in either direction, but that
23 fractures have been known to extend from as few as 150 feet

24

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1 to as many as 1500 feet and that was a Virginia site visit in
2 2002.

3 Q. Okay. My question for you is, is it your
4 opinion that in most...that if you drilled a well 305 feet
5 off the line, just inside the drilling window, in an 80 acre
6 unit that most of the time if you fraced that well you would
7 frac into an adjoining well?

8 A. There is a potential.

9 Q. No, no. My question is, would you agree
10 with me---?

11 A. No, I won't. I'm telling you that there is
12 a potential.

13 Q. Okay. And is that potential something that
14 you would describe as likely to happen or remotely possible
15 or...I mean, how would you scale that?

16 A. I would scale it by asking the data from
17 your company that has done that or my data in the sem...you
18 know, the situation that you're explaining and then analyze
19 the fracture to determine if that potential exists.

20 Q. Okay. What's your frac data that you're
21 relying on in this area that allows you to give opinions
22 today? I mean, what does your frac length data indicating?

23 JOHN HOLLINGSHEAD: Do we have to---?

24

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1 TOM MULLINS: What did you rely on is what he's
2 asking?

3 A. Oh, I'm not relying on our...you're asking
4 as GeoMet or as reference to the EPA document that you guys
5 assisted on?

6 Q. I'm asking you....GeoMet has fraced wells in
7 Virginia haven't they?

8 A. Yes.

9 Q. Okay. What are the frac lengths that you
10 think those wells have generated when they're fraced?

11 A. At this time, I don't know that we have
12 sufficient enough data to make a generalized statement.

13 Q. I didn't ask you for generalities. I asked
14 you for specifics. Give me some frac lengths from your
15 existing wells?

16 TOM MULLINS: Asked and answered.

17 BENNY WAMPLER: I don't think he answered it.

18 TOM MULLINS: I though he said he didn't have
19 sufficient---.

20 BENNY WAMPLER: He was asked a specific question.

21 TOM MULLINS: ---data that he knew about.

22 A. I mean I don't---.

23 BENNY WAMPLER: He said he designed...let me ask
24

1 you a question. Have you designed the frac...before I
2 can...you know, respond to that...have you designed frac in
3 Virginia?

4 JOHN HOLLINGSHEAD: No, I have not---.

5 BENNY WAMPLER: Okay.

6 JOHN HOLLINGSHEAD: ---specifically designed one
7 in State of Virginia.

8 BENNY WAMPLER: All right. Then I think it's fair
9 to say that he can't answer that question.

10 Q. So, you don't know if the GeoMet wells that
11 have been fraced in Virginia have even achieved a 300 foot
12 frac length?

13 TOM MULLINS: Objection to the line of questioning.
14 We've gone far afield from their petition--.

15 BENNY WAMPLER: I'm going to sustain that. I think
16 you have the answer to that.

17 Q. For field rules to work, would you agree
18 with me that the idea is that every unit gets drilled?

19 A. I'm not sure if I understand exactly what
20 you're asking.

21 Q. Okay. I'll make it even more specific. Do
22 you understand that regulatory Boards, like this Board, when
23 they implement field rules understand that there is a

24

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1 possibility of gas migrating across unit lines?

2 A. I agree.

3 Q. And that they know that?

4 A. I agree.

5 Q. If they are reasonably well informed?

6 A. I agree.

7 Q. Okay. And would you agree with me that if

8 everybody in the room knows that and there is an assumption

9 that every unit will have at least one well, that tends to

10 protect against the off unit drainage?

11 A. I agree with that.

12 Q. Okay. If this Board decides that there are

13 good reasons to have two wells in every unit, okay, and if

14 there is an assumption or a knowledge or there is a

15 likelihood or a possibility of off unit drainage with one

16 ...I mean, certainly you don't have to be a genius to figure

17 out there's probably at least as much if not more of that

18 possibility with two wells?

19 A. Correct.

20 Q. Agreed?

21 A. I agree.

22 Q. Okay. But if there is an assumption that

23 goes along with that that virtually every unit will get its

24

1 two wells, does that tend likewise to militate against the
2 unfairness associated with off unit drainage?

3 A. Please ask your question one more time.

4 Q. Okay. If field rules are fair, if everyone
5 has one well in their unit---?

6 A. Right.

7 Q. ---and I think we've agreed on that----?

8 A. That's right.

9 Q. ---okay, why wouldn't they also be fair if
10 everybody had two wells?

11 A. Well, primarily in our situation---.

12 TOM MULLINS: Objection. Oakwood 1 does not have a
13 provision for two wells in every unit. That's not what we're
14 here about today. In fact, that's one of the observations
15 made by the Chairman. We're here on a specific number of
16 units. So, I don't think that question is relevant to the
17 point that is being contested today.

18 MARK SWARTZ: We're here to drill two wells in
19 groups of units that ever keep expanding.

20 BENNY WAMPLER: You know, I'd have to say that it
21 is relevant from the standpoint that the Board has
22 approved...here again, has approved those in the past. The
23 proposal before this Board is to allow this to occur again in
24

1 this particular red zone area. So, I'd direct you to answer
2 the question to the best of your ability.

3 Q. If you've got it in mind and if not I can
4 recall it.

5 A. I mean, you know, me personally, I mean,
6 it's...granted you may get additional gas, but it's...in my
7 opinion or in my professional opinion, it's not a financially
8 sound decision that you're spending twice as much money to go
9 out and drill a well and not getting any incremental recovery
10 on that gas.

11 Q. Okay. I'll speak to the issue of
12 economics---.

13 A. Sure.

14 Q. ---with you in a moment and you can wear me
15 out about that. I'm going to stay with royalty distribution
16 fairness. And what I'm trying to talk about is if...you
17 know, if the Oakwood field rules work in theory knowing there
18 could be drainage from adjoining units if the assumption is
19 that eventually everybody would have one well. That's a, you
20 know, a reasonably fair way to treat people. My question
21 was, why wouldn't it be a reasonably fair way to treat
22 people? I'm not talking economics now. We'll come...I
23 promise you that I will get to that.

24

--

1 A. No, that's fine.

2 Q. Why wouldn't it be also a reasonably fair

3 way to treat people to say everybody is going to have two

4 wells? I mean, do you see any reason why that...we couldn't

5 go there from a royalty distribution standpoint or a

6 correlative rights standpoint?

7 A. If the Board so deemed to change the rules

8 to do that, no, I don't.

9 Q. I'm talking fairness now. Would that seem

10 unfair to you?

11 A. I have...maybe not unfair, but definitely

12 unsound.

13 Q. Okay. Now, let's talk about unsound.

14 A. Okay.

15 Q. What is the payback...when you do the

16 numbers on a well----

17 A. Uh-huh.

18 Q. ---and you're deciding whether or not to put

19 a well in the ground, what's your payback period that you're

20 talking? The well has a payback in what, three years or five

21 years or what are we talking about?

22 A. I would say, typically, two to four years.

23 Q. Okay. And so just from an economics

24

1 standpoint, if...would it be fair to assume that if a well
2 pays itself the cost of development back in two to four years
3 that is in a range of reasons, as far as your company is
4 concerned?

5 A. It is.

6 Q. Have you seen this data?

7 A. Yes.

8 Q. Okay. Is it apparent from the data or does
9 it look like from the data that the drilling of the second
10 well accelerates or shortens the time within which the first
11 well pays off?

12 A. I'm not sure. You know, I don't truly
13 understand this. Is this \$125 million a day accum...or is
14 this the half a million a day accum? I mean, I was never
15 clear on that. And, I guess, the other question---?

16 Q. Well, let me ask you a hypothetical. Let me
17 ask it this way. If you've got a well that produces one
18 hundred a day and you drill a second well and the production
19 on the first well increases to something more than a hundred.
20 Are you with me so far?

21 A. I am.

22 Q. Would you agree with me that the first well
23 will pay out or pay off quicker?

24

--

1 A. Now, are you talking about reaching a
2 hundred a day peak? How long---?
3 Q. It's a hypothetical question.
4 A. Oh, yeah.
5 Q. I'm saying----.
6 A. I understand exactly what you're saying.
7 Q. You've got a well on the ground and it's
8 doing a hundred---.
9 A. Sure.
10 Q. ---and you drill a second well and it drags
11 it up to a hundred and twenty. This is just a hypothetical.
12 A. Sure.
13 Q. Would you agree with me that that alone
14 would be a reason to assume that the first well makes more
15 economic sense because it's going to pay off sooner than was
16 envisioned when it was originally drilled?
17 A. How long do you expect either one of those
18 wells to stay constant and...I mean, if that well makes a
19 hundred a day in five days, I mean, I surely can't make an
20 economic decision based off of that. I mean, can you give me
21 some more perimeters of what you're talking about?
22 Q. Let me ask you this. What are you looking
23 at on a daily production, once you get the water off, when
24

1 you drill a coalbed methane well?

2 A. As far as?

3 Q. A decision that it makes sense to drill it.

4 A. Well, typically, I mean, we try to model a

5 forecast based off of analogies that may be existing in the

6 area, similar to what you guys have done here.

7 Q. I mean, you're familiar with something

8 called a decline curve, right?

9 A. Oh, yes

10 Q. Okay. And would you agree with me that a

11 decline curve is the production graph, basically, from a

12 given well over the life of that well?

13 A. Right. But your example was an incline

14 curve reaching to that point. You gave nothing on how long

15 it was going to be flat and then decline.

16 Q. Right. And I understand you really don't

17 like that question. I'm going to try and find a question

18 that I can ask you that we can get a number going here.

19 A. Right.

20 TOM MULLINS: Objection to that.

21 Q. And my question---?

22 TOM MULLINS: That wasn't questioning. That was

23 more of an---.

24

--

1 MARK SWARTZ: Dialogue.

2 TOM MULLINS: ---attempt to, I guess, direct the
3 witness where he wants to go without a question.

4 BENNY WAMPLER: I---.

5 TOM MULLINS: The witness answered the question
6 asked.

7 BENNY WAMPLER: I agree he answered the question
8 asked.

9 Q. The graph in the center here---.

10 A. Yes.

11 Q. ---the light blue is seven years and the
12 purple is four.

13 A. Yes.

14 Q. Did you know that?

15 A. No, I can't see the fine print there. But I
16 see...I see the curves.

17 Q. Okay. Would you agree that the blue
18 is...are wells that existed, or at least are represented to
19 have existed and the production of those wells, before the
20 purple was drilled?

21 A. Yes, I would say that that date...there is a
22 lag period. Is that a time zero curve?

23 Q. My question for you is, do you see seven
24

1 years of data in that center chart?

2 A. No, I actually can't make out when it---.

3 Q. Okay. We're starting at June of '97 and I'm

4 way older than you are and I can see that. Do you see that?

5 The 297---.

6 A. I may need to borrow your glasses.

7 Q. Here you go. June of '97---.

8 A. Okay.

9 Q. --through December of '05.

10 A. Okay.

11 Q. Okay. You got that? That's roughly---.

12 A. I'll take your opinion that that's what it

13 says. I still can't make it out. It's pretty small.

14 Q. Okay.

15 BENNY WAMPLER: I'll confirm that that's the dates

16 on this chart for that matter of clarity.

17 A. Okay.

18 Q. Now, would you agree that when you look at

19 the data as it's presented in this chart, that it looks like

20 the new wells increased the production of the existing wells?

21 A. I would say that those...the second curve

22 does incline to a higher rate than the first one. But I

23 would have to ask what...how many wells constitutes each

24

1 grouping of wells in those scenarios right there? I mean---.

2 Q. Your lawyer can ask all of that stuff of Mr.
3 Arrington.

4 A. Oh. Well, I'm just...you're asking me to
5 make an opinion on something here. I'm just wanting to
6 formulate what was the number of wells that developed those
7 curves.

8 Q. I guess my question for you is real
9 simple.

10 A. Sure.

11 Q. Does it look to you, from the data depicted
12 in this graph that covers a seven year period, that when the
13 purple wells were drilled the decline curve of the existing
14 wells reversed direction and the production started to
15 increase?

16 TOM MULLINS: Objection. He has already stated he
17 needed information before he could give a full and complete
18 answer to that.

19 BENNY WAMPLER: I don't think he answered that. I
20 think that he was asked specifically based on what he sees
21 right here. I think he...it's a yes or no.

22 A. I would say that yes there is an incline on
23 the gray curve at some point after the bringing on the wells
24

--

1 or whatever made the production curve for the purple.

2 Q. Okay. And it looks like the increase in
3 production on the gray wells continued for years?

4 A. There, again, the scale is to a point to
5 where I will have to take your word for that.

6 Q. Okay. Would you agree that from June of '01
7 through December of '05 the gray wells are at all times
8 producing more than they were before?

9 JOHN HOLLINGSHEAD: Can you read that scale, Mr.
10 Wampler? I mean, if it---.

11 BENNY WAMPLER: Yes. He has given you the correct
12 dates.

13 A. Yes, I'll agree with you.

14 Q. Okay. And now getting back to where I
15 started, if we're looking at economic decisions predicated
16 upon, I don't want to drill the well unless it pays itself
17 off in two to four years, okay?

18 A. Sure.

19 Q. If we find a way that can increase the
20 production from that well attributable to "X" dollars,
21 wouldn't that generally be something that an operator would
22 want to consider?

23 A. I would agree with that.

24

--

1 Q. Okay. And...and...and that's because
2 it...it...it really would improve the economics of the first
3 set of wells because they pay off quicker?

4 A. That is the potential.

5 Q. Okay. When you do forecasts...strike that.
6 Would you agree with me that most operators when they're
7 forecasting revenues into the future, they don't go out very
8 far, like ten years is an eternity?

9 TOM MULLINS: I'd just like to make it clear that I
10 didn't ask him this in direct. He's making him his witness
11 for these purposes before the Board. This is well beyond
12 cross examination.

13 MARK SWARTZ: I'm not limited by his direct.

14 BENNY WAMPLER: I understand. I exp...you know, as
15 I said earlier, we're not going by the strict rules of
16 evidence here. And you're not limited---.

17 MARK SWARTZ: I'm not....I'm representing it and he
18 has got them wrong. But...okay.

19 BENNY WAMPLER: Well, I understand that. But I'm
20 not...I'm not---.

21 MARK SWARTZ: Fair enough.

22 BENNY WAMPLER: ---getting into the lawyers speak
23 on that. I understand he has an ongoing objection to the
24

1 line of questioning. That's noted.

2 Q. Is that something that I have not
3 articulated in such a way that you follow me or do you
4 understand revenue forecasts and...and the times that are
5 generally considered by gas and oil operators?

6 A. I can't specifically say what other
7 operators do. But, I mean, we typically try to forecast out
8 over the life of the well.

9 Q. Okay. So, you're looking at revenue over
10 what period of time for your coalbed methane wells?

11 A. Twenty-five to thirty years.

12 Q. Okay. And if..if somebody could give you a
13 way to get all that money in fifteen years, would you be in
14 favor of that instead of waiting twenty-five or thirty years
15 for it?

16 A. Sure I would.

17 Q. Because generally that's a good thing.

18 A. It's...yes.

19 Q. Would you agree with me that it looks like
20 from the data on this chart that, in general, this infield
21 drilling has increased the production from the existing
22 wells, caused the new wells to produce at a starting rate
23 that's greater than the existing wells?

24

--

1 A. No, I wouldn't because I don't know anything
2 about what lies behind these. I will say that these curves
3 make it appear that the scenario you just stated is correct.
4 But, I mean, I don't know anything about it.

5 Q. Okay. As a prudent operator, if someone
6 came to you and showed you this kind of data wouldn't that be
7 something a prudent operator would look at to possibly
8 implement in their own business?

9 A. I'd like to think myself a prudent operator.
10 I would also look at this and I would also ask for the
11 support data that created these to make sure that they are
12 founded.

13 Q. Of course, you can get that data because
14 it's at that man's office.

15 A. I didn't....he has gas content numbers,
16 isotherm data---?

17 Q. He has volumes, production volumes---.

18 A. Sure.

19 Q. ---and he has well counts.

20 A. Uh-huh.

21 Q. So that data is available, right?

22 A. A prudent operator doesn't make decisions
23 just based off of production. I mean---.

24

--

1 MARK SWARTZ: That's all I have. I would like to
2 talk to Mr. Lewis just for a moment, whenever.

3 BENNY WAMPLER: Mr. Scott, do you have anything...
4 Mr. Mullins, I'm sorry.

5 TOM MULLINS: That's okay. I don't know if it's
6 anybody else's turn first before I go next. I'm happy to go
7 next. But if somebody else wants---.

8 GEORGE MASON: I have no questions.

9

10 REDIRECT EXAMINATION

11 QUESTIONS BY MR. MULLINS:

12 Q. By looking at this proposed exhibit, can you
13 tell what numbers these different charts are based upon and
14 what data is relied upon in those charts?

15 A. No.

16 Q. What would you like to know as an expert to
17 make the evaluations that they're asking about?

18 A. Well, one thing I'd...I'd like to make sure
19 that these curves are...that the wells are all within the
20 same area. I would like to...any core data that would be
21 available to it, isotherm data, pressure monitoring holes,
22 detailed frac analysis of it to make sure that on a seam by
23 seam basis that all these wells that are being compared are

24

--

1 actually, in fact, completed in the same formation, line
2 pressures, water data, and I'm sure there's other assortment
3 of things...I mean, log data would be nice.

4 Q. Now, he asked you a question concerning
5 the...all things being equal, it's a good thing, if everybody
6 has the same number of wells per unit. Is there a timing
7 issue about when you drill those wells? In other words, if a
8 well is drilled in one unit or two wells are drilled in one
9 unit or three wells are drilled in one unit this year, but
10 for whatever reason you can't get a well drilled in an
11 adjoining unit for five years and a frac penetrates that
12 boundary, would there not be damage to that adjoining unit?

13 A. Possibly.

14 Q. So, the timing of drilling is also important
15 too, isn't it?

16 A. It is.

17 Q. Do you understand or are you familiar with
18 the requirement of a consent to stimulate in Virginia?

19 A. I've heard the term, yes.

20 Q. Are you familiar with it? If you're not
21 you're not, but if you are I'm going to ask you some
22 questions.

23 A. I do not know the in depth details of it.

24

--

1 So, I would have to decline at this point on that.

2 Q. All right.

3 MARK SWARTZ: Talking about beyond the scope.

4 TOM MULLINS: I'm just following up with the

5 questions that were asked.

6 MARK SWARTZ: I don't think consent to stimulate

7 came up.

8 BENNY WAMPLER: You all have behaved pretty good so

9 far, just continue for a few more minutes.

10 (Laughs.)

11 MARK SWARTZ: I'm having a sugar issue here. I

12 could strike at any minute.

13 TOM MULLINS: I don't believe I have any other

14 questions for him.

15 BENNY WAMPLER: Anybody else? Anything you don't

16 think the Board has heard?

17 (No audible response.)

18 BENNY WAMPLER: Okay.

19 GEORGE MASON: Mr. Wampler, we do have a witness,

20 LBR Holdings.

21 BENNY WAMPLER: Go ahead.

22 GEORGE MASON: Can we go forward at this time?

23 TOM MULLINS: I have another witness too. I'm

24

1 willing to let him go forward.

2 GEORGE MASON: Oh, I'm sorry. I didn't realize---.

3 BENNY WAMPLER: Oh, I'm sorry. I thought you were
4 through.

5 TOM MULLINS: That's okay. But I...I don't want to
6 interrupt anybody else's flow. I don't want to waive the
7 right to present my additional witness either though.

8 BENNY WAMPLER: Well, go ahead and present your
9 case.

10 TOM MULLINS: Okay.

11 (Jeff Taylor is duly sworn.)

12

13 JEFF TAYLOR

14 having been duly sworn, was examined and testified as
15 follows:

16 DIRECT EXAMINATION

17 QUESTIONS BY MR. MULLINS:

18 Q. Please state your name.

19 A. Jeff Taylor.

20 Q. And what do you do for a living, Mr. Taylor?

21 A. I'm the project manager for GeoMet's
22 Virginia/West Virginia coalbed methane operations.

23 Q. How long have you done that?

24

--

1 A. I've been employed at GeoMet since February
2 2003.

3 Q. Where were you employed prior to being
4 employed in Virginia?

5 A. CNX Gas or Consol Energy.

6 Q. And how long were you employed by those
7 folks?

8 A. I started my crew with them back in 1992
9 actually.

10 Q. And do you have any degrees beyond high
11 school?

12 A. A Bachelor's Degree in Mining Engineer from
13 Virginia Tech.

14 Q. Now, as part of your job duties with GeoMet,
15 are you familiar with the area that's been depicted in red?

16 A. Yes, I am.

17 Q. Are you familiar with GeoMet's operations in
18 and around that area?

19 A. Yes, I am.

20 Q. Have you become familiar with any of the
21 well completions of CNX as part of your duties as a GeoMet
22 employee?

23 A. Yes, I have.

24

--

1 Q. Why don't you tell the Board about that?

2 A. Actually, it possibly couldn't have a more
3 opportune time for CNX as they stimulated into our PMC South
4 71 well last week. This well is approximately 700 feet from
5 the well they stimulated. I think it's...02143-C is the API
6 number. It is a well in West Virginia. And we are in
7 Virginia, but I think it's a relevant case being to close
8 proximity of these petitions for multiple wells in a single
9 unit. When they done that our production increased with...
10 within...by the 13th. After we found everything out, I
11 pulled a gas sample on the well. The nitrogen content in
12 that coalbed methane well was in excess of 4%. That's with
13 increased production. On the 15th, I had another sample
14 pulled. The production at this time is declining and the
15 product...and the nitrogen content is in excess of 2%. So,
16 we are coming back down. They did destroy our BTU value of
17 that well for that time period. They've dropped it to as low
18 as 977 when we typically run in excess of 1,000. Hopefully,
19 this well will heal itself. One of the things that...that I
20 have seen when wells stimulate into another...actually the
21 production of the well, for instance our well that they
22 stimulated into, will decline beyond its original production
23 level that it was at. There is damaged caused to that

24

--

1 adjacent well. I do have graphs and the nitrogen analysis.
2 I've got five minute trend data as well that I can present to
3 you.

4 Q. Why is nitrogen important? Why does that
5 mean anything to this Board?

6 A. The nitrogen level increased in this well
7 due to them fracturing their well with a nitrogen foam frac.
8 So, that really drives it home that it wasn't just a
9 fictitious increase or the well didn't just want to just jump
10 right up there on its own. It was by the assistance of their
11 nitrogen from their adjacent well.

12 Q. Now, are you familiar with the consent to
13 stimulate?

14 A. Yes, I am.

15 Q. Has that caused...in with multiple or higher
16 density drilling in the red zone, has that caused GeoMet any
17 concern?

18 A. Somewhat it does, yes.

19 Q. Could you explain to the Board what that
20 concern is?

21 A. To date, our acreage adjoins that in
22 Virginia there, and actually in C-47 we already have a well
23 in that one unit, but they continue to withhold, and that's
24

1 the Consol group, consent to stimulate for us to develop the
2 Rogers minerals that's represented here today. And it's...
3 talking about protecting correlative rights when they will go
4 over here and propose such a...such a drilling plan and
5 proposal to modify the field rules in which they have
6 testimony that says that one well is adequate to drain that
7 80 acre spacing that they are going to produce. They call
8 this recoverable and in place reserves 125 million to 150
9 mcf. So, I assume, when we add this second well into this 80
10 acre unit, since they say that's our gas in place reserves
11 for that 80 acre unit, then essentially the reserves per well
12 winds up going to what 60 some million to 250 million cubic
13 feet per well. That doubled the costs.

14 Q. All right, sir. Now, there's also a 2500
15 foot rule. Could you explain to the Board why that is a
16 concern for you?

17 A. That's a concern because they can continue
18 to use the 2500 foot rule or the CNX Gas group can continue
19 to, what it appears, sway the land department that they put
20 all this back on that, hey, we can't let them drill that well
21 because we're going to be within 2500 hundred feet. We're
22 going to destroy mining of which they have no mining plan as
23 Mr. Arrington previously stated. I may add for the record by
24

1 the way, the con...CNX or Consol Energy Coal Group has no
2 problem with the consent to stimulate of our drilling in this
3 area as well.

4 Q. How do you know that?

5 A. From working with Bill Fortall to develop a
6 plugging abandonment plan when...if they ever mine in this
7 area that we will plug and abandon that seam and they have no
8 problem and they've recommended that on to their whatever
9 department?

10 Q. Land folks?

11 A. Yeah, that's it.

12 Q. And you have a particular concern about a
13 well that's located...located within the red zone and
14 identify that unit, please.

15 A. That is unit C-47 in particular, as I have
16 eluded to, our 165 well is...Rogers 165 well is already in
17 that unit of which if we try to propose a second well in that
18 unit ourselves, as Mr. Arrington so graciously said that we
19 could if these field rules were adopted, they would object to
20 us based on consent to stimulate or the 2500 foot rule as
21 they always have in the past. Therefore, if we go forward
22 with this, if you all accept this, I think one of the things
23 that's noted in our second paragraph of our objection letter,

24

--

1 that the 2500 foot rule needs waived by any party associated
2 with CNX Gas or Consol Energy or Consolidation Coal Company
3 or...because essentially that's...that winds up, as Mike
4 Lewis can probably better tell you as he did in his
5 testimony, how it makes it very difficult for mining. But
6 it's weird how they can mine around their own wells, but they
7 can't mine around adjacent wells when we've just proposed one
8 well in an 80 acre unit.

9 Q. Do you have some exhibits that you wish to
10 tender to the Board to support your testimony concerning the
11 issue regarding the frac into your 71 well?

12 A. Yes, I do. Do you want to label each one of
13 them?

14 Q. You can label them as a collective exhibit
15 or as one...each individual. I'll leave that up---.

16 BENNY WAMPLER: Just continue down the alphabet,
17 that's how we'll label them. I'll let the court reporter do
18 that.

19 JEFF TAYLOR: For each individual or as one
20 collective package here?

21 BENNY WAMPLER: Individual.

22 A. Okay.

23 Q. How many pages is that?

24

--

1 A. It's four...five.

2 Q. Five.

3 BOB WILSON: The last one I had was Exhibit H.

4 BENNY WAMPLER: Exhibit H. So, we'll go the next

5 five letters of the alphabet.

6 MARY QUILLEN: We can just pass them around. It

7 would be quicker.

8 JEFF TAYLOR: Can I have one for myself, please? I

9 may need that. Mr. Swartz hasn't got a hold of me yet.

10 Q. Is there any other issues or concerns you

11 that you wish to apprise the Board of?

12 A. (No audible response.)

13 TOM MULLINS: I tender the witness at this time.

14 BENNY WAMPLER: Mr. Swartz.

15 CROSS EXAMINATION

16 QUESTIONS BY MR. SWARTZ:

17 Q. Jeff, you and I see each other a good bit at

18 Mr. Wilson's office, right?

19 A. Yes, sir.

20 Q. Because you're busy objecting to my client's

21 permits and I'm busy objecting to your permits, right?

22 A. That seems to occur on a regular basis.

23 Q. And you've made 2500 foot objections

24

1 recently and, in fact, we've got some decisions pending don't
2 we?

3 A. Actually, that is incorrect. I didn't make
4 a 2500 foot objection because I don't have the right to.

5 Q. Okay. You were there with the Rogers folks,
6 weren't you?

7 A. Yes, I was.

8 Q. Okay. And they made the 2500 foot
9 objection?

10 A. Yes, they did.

11 Q. And you were there objecting. What was your
12 objection that day?

13 A. That...essentially, I chose not to testify
14 that day based on various...various reasons about that.

15 Q. But your company filed an objection, right?

16 A. Yes, I did and you can read it.

17 Q. Well, you know, they weren't there we're
18 just trying to share. My question is, what objections did
19 you make to those three permit applications when we were last
20 in front of Mr. Wilson on behalf of GeoMet?

21 A. That essentially your all's production in
22 the area is inferior to that of ours. Therefore, we should
23 be deemed the better operator...operator of the unit in which

24

--

1 each and every person based, on the graphs that I see, lines
2 up winning.

3 Q. In West Virginia, the rules are quite a bit
4 different with regard to well location than they are in
5 Virginia, aren't they?

6 A. There is no established field rules, that is
7 correct.

8 Q. Basically, you can corner, shoot leases and
9 poach, can't you, in West Virginia?

10 A. We abide by the West Virginia law.

11 Q. And the West Virginia law allows operators
12 to drill lease lines...to drain adjacent properties, wouldn't
13 you agree?

14 A. I do not agree with that. I think there is
15 a 750 foot rule in there if I ain't mistaken, Mark.

16 Q. How close was your well in West Virginia to
17 the lease line?

18 A. Actually, that's the same lease in which you
19 all farmed out to us when we had to meet your drilling
20 obligations so you wouldn't lose the PMC acreage that you
21 obtained. So, there was no more room to place any other
22 wells in there.

23 Q. What was it about how close was your well to
24

1 your lease line that you didn't understand? That was my
2 question. How close was it to the lease line?

3 A. Pretty close.

4 Q. Like less than 50 feet?

5 A. There's actually...would you call it a lease
6 line?

7 Q. I'm asking you.

8 A. I'm asking you. I mean, I don't know that
9 that's an established---

10 BENNY WAMPLER: You're not an attorney here. You
11 need to answer the questions, okay.

12 TOM MULLINS: Well, I object on his behalf.

13 BENNY WAMPLER: Well, you can object.

14 TOM MULLINS: And the reason being, if this is a
15 farm out and there's an artificial line within a boundary of
16 a leasehold that has been drawn by the two companies, then
17 you're not drilling close to a lease line. You're drilling
18 to an established farmed out area and the question on its
19 face is not fair and is not comply with what he's
20 representing the Code of West Virginia to be.

21 A. That's correct.

22 Q. How close were you to the state line?

23 A. State line is a very good distance away, a
24

1 few 1,000 feet.

2 Q. Well, I assume their well was in Virginia,
3 the one that you're saying is----?

4 A. No, as I have stated in my testimony, their
5 well is in West Virginia, 02134-C.

6 Q. Oh, okay. So, you're not talking about a
7 well that's in the red area?

8 A. No, I'm not.

9 Q. Oh, okay. Never mind. Did you call Mr.
10 Arrington about that alleged frac?

11 A. No, I didn't. Actually, I've talked to him
12 early on when they fraced into additional wells that we have
13 in that area and, you know, we were going to work together on
14 various things and, you know, it was a pretty good working
15 relationship at that time.

16 Q. Okay. But what are the other wells there
17 that you allege they fraced into?

18 A. It would be our Rogers 131 well.

19 Q. Where is that located? What state?

20 A. That is located in West Virginia.

21 Q. Okay. Any other ones?

22 A. Actually, they've fraced into our 71 twice,
23 the PMC-70.

24

--

1 Q. And where is that well located?

2 A. That one is in West Virginia.

3 Q. Okay. Any other wells?

4 A. Not that I can think of. They haven't

5 drilled many close to us, but they're certainly gearing up

6 for it.

7 Q. Tell me the wells that you've had...you've

8 seen a frac in the well where the production has declined.

9 A. Actually, I can probably show you that one.

10 Q. Well, I just want you to give me the number.

11 A. 131.

12 Q. Okay. How about 70, did that go up or down?

13 A. You have the graph there, it looks like it's

14 on a downward trend. Oh, you said 71, I'm sorry. The 70 is

15 definitely going down, yes, sir.

16 Q. Okay. And all of those wells are in West

17 Virginia, right?

18 A. That is correct.

19 Q. Okay. Where in this red graph is your C-47

20 well?

21 A. I would like for them to be able to present

22 this in a little bit larger scale if possible for future---.

23 TOM MULLINS: Why don't you just show us, Mark. I

24

1 can't see it either.

2 Q. So, you don't know where it is in the red?

3 A. It's going to be one of these units up here.

4 I have a...yeah.

5 Q. Now do you know?

6 A. Yes, I do.

7 Q. Okay, which one is it?

8 (Witness points.)

9 Q. Okay. So, it's in the...it's the lefthand

10 unit in the second red row from the top?

11 A. Actually, it's the third row from the

12 top...oh, okay, second from the top coming down, right.

13 Q. The far lefthand in that row---?

14 A. That is correct.

15 Q. ---and it's the second one colored red

16 coming down from the top?

17 A. That is correct.

18 Q. Does...does your company have any other

19 units in the red area that have CBM wells in them?

20 A. No, they don't.

21 Q. Okay. And I take it, the West Virginia line

22 is...is just to the...to the north and west of this location?

23 A. That is correct.

24

25

1 MARK SWARTZ: That's all I have.

2 TOM MULLINS: I have one or two few follow up
3 unless somebody else does or the Board members do.

4 BENNY WAMPLER: Any questions from members of the
5 Board?

6 (No audible response.)

7

8 REDIRECT EXAMINATION

9 QUESTIONS BY MR. MULLINS:

10 Q. Does the geology change significantly
11 between just on the Virginia side versus just on the West
12 Virginia side?

13 A. Absolutely not.

14 Q. You would expect to see the same
15 characteristics from that general area?

16 A. Uh-huh.

17 Q. Is that correct?

18 A. Yes.

19 Q. Okay. Now, you have some exhibits there
20 concerning Rogers 131, is that correct?

21 A. That is correct.

22 Q. What does that depict?

23 A. Actually, that depicts on the April the 6th,

24

--

1 CNX Gas stimulated their Virginia well B-51 into our Rogers
2 131, which is one of the wells in question for multiple wells
3 in a single unit, I think.

4 SHARON PIGEON: Are you starting a new direct? Is
5 that what's happening here?

6 TOM MULLINS: No, I'm respond...he asked him about
7 all of the additional drilled in wells.

8 Q. And does that chart depict what happened to
9 that well?

10 A. Yes, it does. And, actually, just to
11 enlighten you, their B-51 well is approximately 1460 feet
12 from our Rogers 131 well. Essentially, we have...the daily
13 production, we have production on five minute trends that
14 shows on that on April 6th that they stimulated into us and
15 just a few different representations of the same graph.

16 Q. Would you like to make those an exhibit for
17 the Board?

18 A. Yes, I would. All of these are stapled,
19 would you like for me to---?

20 MARY QUILLEN: Just give them...we will pass them
21 around.

22 BENNY WAMPLER: No, we want to label them whatever
23 the next alphabetical letter is.

24

--

1 MARY QUILLEN: Do you have one of these?

2 A. Yes, ma'am. Thank you.

3 Q. Okay. Now, as far as---?

4 MARY QUILLEN: Are these West Virginia also?

5 A. The Rogers 131 is a West Virginia well and
6 they stimulated into it with a Virginia B-51 well.

7 Q. As a drilling or a gas operator, there's a
8 fair amount of money you can spend putting in wells, is that
9 right?

10 A. That's correct.

11 Q. And if you put all of the money in putting
12 multiple wells in individual units, would that tend to
13 decrease drilling into the other units because the funds
14 aren't available?

15 A. You would think most companies have a
16 certain amount of capital allocated per year, so that is
17 correct.

18 TOM MULLINS: I don't have any other questions.

19 BENNY WAMPLER: Mr. Mason.

20 GEORGE MASON: I have no questions.

21

22 RECROSS EXAMINAION

23 QUESTIONS BY MR. SWARTZ:

24

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1 Q. This...this Rogers 131 well.
2 A. Yes, sir.
3 Q. This must have been kind of a miracle frac
4 to get 1460 feet. I mean, that's like...1500 is the best
5 we've ever heard of.
6 A. Yeah, you're pushing it.
7 Q. So, this was like a really extremely
8 successful frac to get 1460 feet, right?
9 A. It's your well, you tell me.
10 Q. Would you agree that this is really an
11 awesome frac length---?
12 TOM MULLINS: Objection to the characterization---.
13 Q. ---of almost 1500 feet?
14 TOM MULLINS: That's not---.
15 BENNY WAMPLER: I'm just going to cut this off
16 because you guys are just sparring with each other and that's
17 not good. We're not going to tolerate that in here. I can
18 just tell you that right now I'm not going to tolerate it.
19 Mr. Mason, you're on.
20 GEORGE MASON: Yes, sir. I've got one witness
21 here. I've got his resume with me to help aid the Board and
22 also one exhibit. And let me go ahead and pass out both at
23 this time. Here is the original map and I do have...and you
24

1 could pass those to your left and to the right.

2 BENNY WAMPLER: I'll do it.

3 (Ertel L. Whitt, Jr. is duly sworn.)

4

5 ERTEL WHITT, JR.

6 having been duly sworn, was examined and testified as

7 follows:

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. MASON:

10 Q. Would you state your name, please?

11 A. Ertel Whitt, Jr.

12 Q. By whom are you employed?

13 A. LBR Holdings, LLC.

14 Q. And know that the Board has a copy of your
15 resume, but could you briefly provide your educational
16 background?

17 A. I have an engineering degree from the
18 University of Kentucky. I'm registered in...as a
19 professional engineer in Kentucky, Virginia and West Virginia
20 I'm also a licensed surveyor in Kentucky and West Virginia.

21 Q. Please provide your work experience in
22 any...I think you've already elaborated on your state
23 licenses. But give your work experience, please.

24

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1 A. I have been in and around the coalfields and
2 the gas fields since 1972, so twenty some years. In the
3 last...I worked for the Rogers family, which is the owner of
4 LBR Holdings, LLC, for the past sixteen years and on this
5 property, you know, particularly for sixteen years.

6 Q. So, when people talk about a Rogers well,
7 they're talking about that that's the Rogers family---?

8 A. Right.

9 Q. ---which is now LBR Holdings, LLC?

10 A. Right. There was just a restructuring of
11 the name. It had been in a Trust and they changed it to an
12 LLC.

13 Q. All right. Are you familiar with the LBR
14 property both in Virginia and in West Virginia?

15 A. Intimately.

16 Q. And you...I think you stated that you...since
17 1990?

18 A. Since 1990.

19 Q. Have you testified before the Board or
20 before Mr. Wilson in an informal fact-finding hearing?

21 A. Yes, I have.

22 Q. Is that, yes, both to the Board and also to
23 an informal fact-finding?

24

--

1 A. I've been to several Board meetings. I'm
2 not sure whether I ever testified because so many times they
3 were continued or withdrawn. I'm not...really not sure.

4 Q. Okay.

5 A. I've been here many times. I'm not sure
6 that I testified.

7 Q. Well, are you familiar with the CNX Gas
8 Company, LLC petition to modify the Oakwood 1 field rules?

9 A. Yes, I am.

10 Q. All right. Did you prepare a map for
11 today's hearing?

12 A. Yes. It was just passed out.

13 Q. When did you prepare that?

14 A. Actually, yesterday.

15 Q. What is the basis for the map?

16 A. The basis of the map shows the northwestern
17 extent of the proposed field rule modifications that are
18 bounded and highlighted in orange on my exhibit and that's
19 the only place in the proposed modification that involve the
20 LBR Holdings properties. I have also highlighted in yellow,
21 the LBR Holdings properties that are involved in the proposed
22 field rule modifications. The LBR Holdings owns 100% of the
23 coal under each of those properties and at least 75% of the

24

--

1 gas under each of those properties. There is one exception
2 and that is we own a slightly more interest in the gas on a
3 tract on the south western side.

4 Q. And that is what is depicted in yellow on
5 your map?

6 A. That's depicted in yellow, yes.

7 Q. All right. There are also some other line
8 drawings on the map, does that show other LBR property
9 holdings that are---?

10 A. Yes. Yes, beyond the field rule
11 modification area.

12 Q. All right. And the field rule modification
13 is not the complete area colored red on a previous exhibit,
14 is that correct?

15 A. That's correct. That is correct. It's only
16 the northwestern corner.

17 Q. All right. Would you explain which wells...
18 proposed wells are within 2500 feet of LBR coal property?

19 A. Of the CNX wells?

20 Q. Yes.

21 A. Of the current applications that I am aware
22 of B-50, B-51, C-50, D-47 and that's all I see right off.

23 Oh, I'm sorry, down in the southern corner, and it's out of

24

--

1 the proposed field rule area, is a E-43, but this is out of
2 the field rule modification area.

3 Q. You've heard some test...previous testimony
4 about well number 131 and B-51. Could you explain that to
5 the Board?

6 A. On my exhibit, Rogers 131 is just labeled as
7 31, it's...the colors don't show up very clear, but it's
8 highlighted in green near the right center top of the page.
9 B-51 is immediately to the southeast...I'm sorry, the
10 southwest of that well 131.

11 Q. All right.

12 A. It's just across the...just across the state
13 line.

14 Q. And LBR Holdings has previously objected
15 under the 2500 rule to B-50 and E-43. Could you locate those
16 too?

17 A. B-50 is immediately to the left or to the
18 west of B-51 and adjacent to our Tract 13. E-43 is on
19it's outside of the orange boundary to the west and has a
20 red "X" on it designating CBM...or the CNX well.

21 Q. And D-47, would you locate that well for us?

22 A. D-47 is inside the orange...well it's
23 labeled as D-47 there. It's the third row down and second
24

1 row from the west...or third row from the west of the
2 outlined area.

3 Q. All right. And is that within 2500 feet of
4 the property line of LBR Holdings?

5 A. Yes, it is.

6 Q. Now, did LBR Holdings make an objection
7 using the 2500 foot rule for that well?

8 A. No, we did not.

9 Q. But we do...did they make an objection as to
10 the roy...as the royalty owner?

11 A. Not to my...not to my knowledge.

12 Q. Let me ask you, what you have here in yellow
13 is LBR Holdings owns the coal and the majority interest in
14 the oil and gas?

15 A. That's correct.

16 Q. Who is the..if you know, who is the coal
17 leased to?

18 A. The above-drainage coal...or the Jawbone and
19 above is leased to Jewell Ridge Coal Company and the majority
20 of it is subleased to Jewell Smokeless. The below-drainage
21 coal is leased to Island Creek Coal Company on the Virginia
22 side.

23 Q. On the Virginia side, all right. Now, as
24

1 far as the coalbed methane development, is there an agreement
2 with LBR Holdings with any company?

3 A. As far as coalbed methane?

4 Q. Yes, sir.

5 A. The lease is with Equitable Production
6 Company for the CBM and that is a farm out agreement between
7 Equitable and GeoMet.

8 Q. All right. Let me back up one...as a coal
9 owner, LBR Holdings, has it ever received a mine development
10 plan?

11 A. For the Pocahontas No. 3, no. We've asked
12 for it, but we've never received one.

13 Q. All right. Who did you ask for that mine
14 development plan?

15 A. I'm not sure. I didn't pen the letter. But
16 it went to Island Creek at their Oakwood office.

17 Q. All right.

18 A. There has been correspondence with an
19 attorney, but I don't recall a name.

20 Q. All right. The proposal is to have more
21 than one well within each unit. How would that, a second
22 well within a unit, affect LBR Holdings coal property?

23 A. In the near future, it would have primary
24

1 affect would be to hinder Jewell Smokeless from developing
2 the Jawbone seam. That is the primary mineable seam in this
3 area. There is the possibility of some other development.
4 The Red Ash seam is the other primary seam and it's pretty
5 much mined out in this area. But the...the Jawbone seam, the
6 more wells there is in there the harder it is for them to
7 mine.

8 Q. All right. Are there any other observations
9 or objections concerning LBR Holdings as a coal owner?

10 A. Well, again, we've...the coal development
11 will be...will be hampered by the more wells and we are
12 concerned about the correlative rights with drilling more
13 wells in the units that adjoin us. If you...if field rules
14 were made to be 80 acres and if you put two in it,
15 effectively you're given 40 acre units. Certainly, the fracs
16 are going to have double the opportunity to cross that
17 border. That's one of our objections to...not only to
18 granting the modification on the field rule units that we're
19 involved with, but also the adjacent field rule units.

20 Q. All right. What about those...could it
21 affect or impact LBR Holdings property outside of the Oakwood
22 1 modification?

23 A. Well, certainly it could affect the...our
24
25

1 properties immediately to the north on the West Virginia
2 side.

3 Q. What about property to the west, you know,
4 that's on the Virginia side?

5 A. Yes. There is...there...just as a matter of
6 fact, the boundary of this field rule modification stops
7 pretty much at our property line in and the offsets with it.

8 Q. All right.

9 A. So, anything adjacent to the boundary there
10 in the northwestern corner would be...could have an affect
11 on...could drain our acreage.

12 Q. And after this will be...after this petition
13 is heard, there is force pooling motions for B-50, E-43 and
14 D-47. And you've heard a statement that LBR Holdings is...
15 supports the conflicting...or I should say be competing and
16 not conflicting...but competing applications of GeoMet
17 Operating, is that correct?

18 A. That's correct.

19 GEORGE MASON: Those are all my questions on
20 direct, Mr. Chairman.

21 BENNY WAMPLER: Thank you. Any questions from
22 members of the Board?

23 (No audible response.)

24

--

1 BENNY WAMPLER: Mr. Swartz.

2

3

4

5 CROSS EXAMINATION

6 QUESTIONS BY MR. SWARTZ:

7 Q. There are no wells currently located in B-
8 50, D-47 and E-43, correct?

9 A. Any CBM wells in...repeat those numbers,
10 please.

11 Q. There are no CBM wells in B as in boy 50, D
12 as in David 47, and E as in Edward 43, correct?

13 A. I believe, that's correct.

14 Q. Okay. And when CNX Gas Company filed well
15 work permit applications for those three units, your client
16 objected to all three, correct?

17 A. When CNX did it?

18 Q. Right.

19 A. No, we objected, I think, to B-50 and E-43.
20 I may...I may be wrong. There may be another objection, but
21 I don't---.

22 Q. Maybe that will refresh your memory.
23 There's three listed.

24

--

1 A. Okay.

2 Q. So, what...did you object to all three?

3 A. Apparently, yes.

4 Q. Okay. And do you know whether or not GeoMet

5 has recently filed well work applications for the same three

6 units?

7 A. Yes.

8 Q. And is it your plan to object or not object

9 to those?

10 A. We do not plan to object to those.

11 Q. Okay. So, your objections to 2500 feet or

12 development are operators specific, apparently, as opposed to

13 coal effect?

14 A. Well, our operator...GeoMet is a much more

15 efficient operator, in our opinion, than CNX. You all have

16 wells operating on us currently, as well as GeoMet does, and

17 we see a much higher production from the GeoMet wells. Not

18 only that, but we also see a considerably higher price from

19 the gas sold off of those same wells.

20 Q. Okay. So, the extent that you testified a

21 few minutes ago that your objections to wells in these units

22 was to protect the mining of coal in the future, can I assume

23 that that really isn't why you were objecting to D-47, B-50

24

1 and D-19---?

2 A. My objection was not on wells being drilled
3 in these units. My objection was on two wells being drilled
4 in each of these units.

5 Q. Okay. Well, the well work permit
6 application was for one well?

7 A. We objected to your well.

8 Q. Right.

9 A. We have not objected to GeoMet's well. We
10 still have time to do that if we chose to do that because
11 those permits have just been submitted within the last few
12 days.

13 Q. Okay. But didn't you just tell me you
14 didn't plan to object to those wells, the GeoMet wells?

15 A. Well, I'm not the one that makes the call.
16 Mr. Rogers is not in the country today.

17 Q. Okay. Well, I guess---.

18 A. I haven't spoken to him since those...since
19 those wells have been proposed.

20 Q. Okay. Did I mishear you if I thought I
21 heard you say you that you did not plan to object to the
22 GeoMet---?

23 A. I don't think I will, no, sir.

24

--

1 MARK SWARTZ: That's all I have.

2 TOM MULLINS: May I have just a couple?

3 BENNY WAMPLER: Yes.

4

5 CROSS EXAMINATION

6 QUESTIONS BY MR MULLINS:

7 Q. You would anticipate a higher rate of return
8 on the wells if GeoMet is the operator?

9 A. Yes.

10 Q. Would you consider that to be a factor in
11 making objections based upon coal ownership or any other
12 reason?

13 A. Absolutely.

14 TOM MULLINS: That's all I have.

15 BENNY WAMPLER: I want to label this whatever the
16 next alphabetical letter is.

17 BOB WILSON: Yes, sir. I've got this one down to
18 Q.

19 BENNY WAMPLER: Okay. Did you have anything?

20 MR. JUSTICE: No, sir.

21 BENNY WAMPLER: Anyone anything further?

22 (No audible response.)

23 BENNY WAMPLER: Questions from members of the Board

24

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1 of this witness?

2 (No audible response.)

3 BENNY WAMPLER: What's your pleasure, besides
4 lunch?

5 DONNIE RATLIFF: Mr. Chairman, if we approve this
6 petition---.

7 BENNY WAMPLER: Mr. Ratliff.

8 DONALD RATLIFF: Jewell Smokeless still has their
9 veto power and the right to work with CNX on each well on a
10 case by case basis, is that be true?

11 BENNY WAMPLER: That would be true for GeoMet and
12 for LBR Holdings as to the extent they own the coal.

13 DONNIE RATLIFF: I would move we approve the
14 petition as presented, Mr. Chairman.

15 MARY QUILLEN: Second.

16 BENNY WAMPLER: Motion is second. Any further
17 discussion?

18 (No audible response.)

19 BENNY WAMPLER: All in favor, signify by saying
20 yes.

21 (All members signify by saying yes.)

22 BENNY WAMPLER: Opposed, say no.

23 (No audible response.)

24

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1 BENNY WAMPLER: You have approval. Thank you.

2 (Break.)

3 BENNY WAMPLER: Okay, we'll call the meeting to
4 order. The next item on the agenda is a petition from CNX
5 Gas Company, LLC for repooling of coalbed methane unit B-19.
6 This is docket number VGOB-01-1120-0972-01. We'd ask the
7 parties that wish to address the Board in this matter to come
8 forward at this time.

9 MARK SWARTZ: Mark Swartz and Les Arrington.

10 BENNY WAMPLER: Let the record will show there are
11 no others. You may proceed.

12 MARK SWARTZ: Mr. Chairman, I would like to
13 incorporate Les' testimony with regard to what he does and
14 who he works for and the status of CNX in Virginia.

15 BENNY WAMPLER: That will be incorporated.

16

17 LESLIE K. ARRINGTON

18 DIRECT EXAMINATION

19 QUESTIONS BY MR. SWARTZ:

20 Q. Les, I need you to state your name for us,
21 again.

22 A. Leslie K. Arrington.

23 Q. I'm going to remind you that you're still
24

--

1 under oath.

2 A. Yes.

3 Q. Okay. This...this unit is an Oakwood 1
4 unit, is that correct?

5 A. Yes, it is.

6 Q. How many acres?

7 A. 80.

8 Q. How many wells proposed?

9 A. One.

10 Q. And...and whereabouts?

11 A. It's within the drilling unit for the
12 window.

13 Q. Okay. And this...this was previously
14 pooled?

15 A. Yes, it was.

16 Q. And the docket number under it for which it
17 was originally pooled it looks like it was back in
18 2001...'01?

19 A. Yes, it was.

20 Q. Okay. And what is the reason that we're
21 repooling this?

22 A. One of our leases expired.

23 Q. The one with Mark Welch and Cara Welch?

24

1 A. Yes.

2 Q. Okay. And you weren't able to reach a
3 further agreement with them, I take it, so you need to pool?

4 A. We have not, that's correct.

5 Q. Okay. What did you do to let Mr. and
6 Mrs...well, I don't know if they're...Mark and Cara Welch
7 know there was going to be a hearing today?

8 A. I mailed by certified mail, return receipt
9 requested on May 19, 2006 and published in the Bluefield
10 Daily Telegraph on May 25, 2006.

11 Q. Okay. And did you...have you filed proofs
12 of publication and proofs of mailing with Mr. Wilson?

13 A. Yes, we have.

14 Q. Okay. Do you want to add anybody as a
15 respondent today?

16 A. No.

17 Q. Do you want to dismiss any of these....
18 either of these folks?

19 A. No.

20 Q. Okay. The...they are in, if I'm not
21 mistaken, Tracts 2 and 5, is that correct?

22 A. I believe, 2, 5 and 6, but I'd have to look
23 at that Exhibit.

24

--

1 BENNY WAMPLER: 2 and 5 is all you have on Exhibit
2 B-3.

3 A. 2 and 5.

4 Q. 2 and 5, okay. And there's no escrow
5 requirement for them?

6 A. No.

7 Q. Okay. And what interests are you seeking to
8 pool and what have you previously acquired or pooled?

9 A. We have 92.5458% of the coal, oil and gas
10 owner's claim to coalbed methane. We're seeking to pool
11 7.4542% of the coal, oil and gas owner's claim to coalbed
12 methane.

13 Q. Now, have you filed a well work estimate?

14 A. Yes, we have. For \$198,866.20 to a depth of
15 2330 feet. Permit number is 6710.

16 Q. And that was the cost estimate at the time
17 this was originally pooled?

18 A. That's correct.

19 Q. So that when Mark Welch and Cara Welch get
20 an opportunity to elect to participate, it would be at that
21 original number that everybody else was offered?

22 A. That's correct.

23 Q. In the event that they were willing to
24

1 lease, what terms would you be offering at this point?

2 A. For a coalbed methane lease, it's a dollar
3 per acre per year with five year paid up term with a one-
4 eighth royalty.

5 Q. And in the event that the Board were to
6 repool this unit and offer election options, would you
7 recommend those terms to the Board to be inserted in the
8 order for folks...to apply to folks that were deemed to have
9 been leased?

10 A. Yes, we would.

11 Q. Is it your opinion that the development plan
12 as disclosed by the application and exhibits, which is to
13 drill a frac well in the drilling window to produce the
14 coalbed methane under this unit, is a reasonable way to
15 produce the methane?

16 A. Yes, it is.

17 Q. And if you combine this pooling order with
18 the leasing efforts and leases that you have...that the
19 operator has obtained, will all the correlative rights of all
20 of the folks whether the claimants or owners be protected?

21 A. Yes, they will.

22 MARK SWARTZ: That's all I have.

23 BENNY WAMPLER: Questions from members of the
24

1 Board?

2 (No audible response.)

3 DONNIE RATLIFF: Motion to approve.

4 BENNY WAMPLER: Motion to approve. Is there a

5 second?

6 PEGGY BARBAR: I'll second.

7 BENNY WAMPLER: Any further discussion?

8 (No audible response.)

9 BENNY WAMPLER: All in favor, signify by saying

10 yes.

11 (All members signify by saying yes.)

12 BENNY WAMPLER: Opposed, say no.

13 (No audible response.)

14 BENNY WAMPLER: You have approval.

15 DONALD RATLIFF: Continued 11?

16 BENNY WAMPLER: Well, we've decided just to do 11.

17 MARK SWARTZ: Well, along those lines, you know,

18 we're going to do 11 and 13, but I'm just going to do a bear

19 bones deal on this.

20 BENNY WAMPLER: That's fine.

21 MARK SWARTZ: Okay. Just so you know.

22 BENNY WAMPLER: A petition from CNX Gas Company,

23 LLC for pooling of coalbed methane unit B-50, docket VGOB-06-

24

1 0620-1642. I'd ask the parties that wish to address the
2 Board in this matter to come forward at this time.

3 MARK SWARTZ: Mark Swartz and Les Arrington. And I
4 think it would be probably productive to combine 11, 12 and
5 13.

6 BENNY WAMPLER: Any objections?

7 TOM MULLINS: I don't have any objection to that.
8 No objection.

9 GEORGE MASON: I didn't hear---.

10 BENNY WAMPLER: Any objection combining 11, 12 and
11 13?

12 GEORGE MASON: Combine them together?

13 BENNY WAMPLER: Yes.

14 GEORGE MASON: I have no objection.

15 BENNY WAMPLER: I'll go ahead and call those.

16 The other two docket numbers are VGOB-06-0620-1643 and 1644.

17 We'd ask the parties that wish to address the Board in these
18 matters to come forward at this time.

19 MARK SWARTZ: Mark Swartz and Les Arrington.

20 TOM MULLINS: Tom Mullins and Jeff Taylor for
21 GeoMet.

22 GEORGE MASON: George Mason and Ertel Whitt on
23 behalf of LBR Holdings, LLC.

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1 JOHN HOLLINGSHEAD: John Hollingshead with GeoMet.

2

3

4 LESLIE K. ARRINGTON

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. SWARTZ:

7 Q. Les, would you state your name for us,
8 please?

9 A. Leslie K. Arrington.

10 Q. Let me remind you that you are still under
11 oath.

12 A. Yes.

13 MARK SWARTZ: Mr. Chairman, I would like to
14 incorporate Les' prior testimony in regards to his
15 employment, the appli...the information regarding the
16 applicant and the operator and the standard lease terms.

17 BENNY WAMPLER: That will be incorporated.

18 Q. Who's the applicant on these three
19 applications?

20 A. CNX Gas Company, LLC.

21 Q. And in each of those three appli...
22 applications, is CNX requesting that in the event the Board
23 should pool these three units that CNX be the Board's

24

--

1 designated operator?

2 A. That's correct.

3 Q. The...these units are all Oakwood 1 units,
4 is that correct?

5 A. They are.

6 Q. Okay. Are they all...well, are some of them
7 80 acre units and some...one of them something else?

8 A. Yes, it's a makeup unit along the state
9 line.

10 Q. Okay. And which unit is that?

11 A. B-50.

12 Q. And what's the acreage in B-50?

13 A. 62.91.

14 Q. And what's the acreage in the other two?

15 A. 80.

16 Q. Okay. How many wells are proposed in each
17 of these units?

18 A. One.

19 Q. In E-43, I think the well is not in the
20 window, is that correct?

21 A. I believe, that is correct.

22 Q. Okay. In D-47, the well is in the window?

23 A. Yes.

24

1 Q. And what about the location in terms of the
2 drilling window with regard to B-50?

3 A. Yes, it is.

4 Q. Okay. Have you listed the folks that are
5 respondents in the two section of notice of hearing and again
6 in Exhibit B-3?

7 A. Yes, we have.

8 Q. And what did you do to let all those people
9 know that we were going to have some hearings?

10 A. We mailed by certified mail, return receipt
11 requested May 19, 2006 on all three units. We published in
12 the Bluefield Daily Telegraph for B-50 on May 25, 2006, for
13 D-47 May 25, 2006 and E-43 May 26, 2006.

14 Q. And have you filed proofs of publication and
15 certificates with regard to mailing with Mr. Wilson?

16 A. Yes, we have.

17 Q. Do you wish to add anyone as a respondent to
18 any...to any of these three applications?

19 A. No.

20 Q. Do you wish to dismiss anybody today?

21 A. No, we do not.

22 Q. Okay. Starting with B-50, which I think is
23 the one that's first on the docket, let's talk about what
24

1 interests you've acquired and what interests you are seeking
2 to pool?

3 A. Okay. On B-50, we have a 53.4096% of the
4 coal, oil and gas owner's claim to coalbed methane leased and
5 we're seeking to pool 46.5904% of the coal, oil and gas
6 owner's claim to coalbed methane.

7 Q. And the...with...let's just stay with this
8 for just a minute. Have you filed a cost estimate with
9 regard to B-50?

10 A. Yes, we have of \$239,545.27 to a depth of
11 2489.

12 Q. And you don't have a permit of this just
13 yet?

14 A. No.

15 Q. And, in fact, there were objections,
16 correct?

17 A. Yes.

18 Q. And Mr. Wilson had a hearing and we're
19 awaiting his decision?

20 A. That's correct.

21 Q. Would there be an escrow requirement with
22 regard to some or all of the royalty?

23 A. Yes, for Tract 2.

24

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1 Q. Tract 2 is a 29.31 acre tract in the unit?
2 A. Yes, it is.
3 Q. And that's where the 46.5904% comes from
4 that needs to be pooled?
5 A. Yes.
6 Q. Okay. And is there a portion of that that's
7 in fee and a portion that needs...is there a one-quarter
8 interest that needs to be escrowed or does all of it need to
9 be escrowed?
10 A. I believe, one-quarter.
11 Q. Okay.
12 A. I'm pretty sure of that.
13 Q. Okay, let me find....okay, so there's only a
14 one-fourth interest that's in conflict, is that---?
15 A. Yes.
16 Q. ---is that your understanding?
17 A. That's correct.
18 Q. Okay. And that would be on the...and that
19 would be the only amount that would need to be escrowed and
20 the reason would be the conflict?
21 A. Yes.
22 Q. Okay. And that's true of all three units?
23 A. Yes.

24

--

1 Q. Okay. And the next...the next one on the
2 docket D-47, do you have a permit application pending?
3 A. Yes, we do.
4 Q. And were there objections to that?
5 A. Yes, there was.
6 Q. Have we had a hearing?
7 A. Yes.
8 Q. And are we awaiting a decision from Mr.
9 Wilson?
10 A. Yes, we are.
11 Q. Okay. What...what was your well cost
12 estimate with regard to D-47?
13 A. D-47 was \$236,116.
14 Q. Estimated depth?
15 A. 1920.
16 Q. And, obviously, you don't have a permit yet?
17 A. That's correct.
18 Q. With regard to D-47, would you tell the
19 Board what interests you've acquired and what you're seeking
20 to pool?
21 A. We have 93.1% of the coal, oil and gas
22 owner's claim to coalbed methane leased. We're seeking to
23 pool 6.9% of the coal, oil and gas owner's claim to coalbed
24

1 methane.

2 Q. Okay. And, again, we've talked about
3 escrow. But just to repeat, only one-fourth of the Exhibit E
4 interest needs to be escrowed?

5 A. That's correct

6 Q. With regard to the third unit, E-43, what
7 was your well cost estimate?

8 A. \$239,978 to a depth of 1,916 feet.

9 Q. Have you filed a well permit application on
10 this one?

11 A. Yes, we have.

12 Q. Objections again?

13 A. Yes.

14 Q. Still awaiting a decision?

15 A. Yes.

16 Q. Okay. With regard to all three of these
17 units, after you filed a well work permit applications did
18 somebody else follow behind you and file their own
19 applications?

20 A. Yes. Just recently, GeoMet.

21 Q. And when you say just recently, how
22 recently?

23 A. I think I got them on Friday. I believe it

24

--

1 was Friday.

2 Q. Okay. So, three or four days ago?

3 A. Yes.

4 Q. Okay. And was that true of all three of

5 these?

6 A. Yes,

7 Q. What is the interest that you have acquired

8 and...or what are the interests that you've acquired in E-43

9 and what is it you're seeking to pool?

10 A. We've acquired 77.5281% of the coal, oil and

11 gas owner's claim to coalbed methane. We're seeking to pool

12 22.4719% of the coal, oil and gas owner's claim to coalbed

13 methane.

14 Q. And there's an Exhibit E tendered again?

15 A. Yes.

16 Q. And that would require escrow because of a

17 conflict and, again, it's just one-fourth?

18 A. Yes.

19 Q. In summary, is it your opinion that drilling

20 a frac well in these three units is a reasonable way to

21 extract coalbed methane gas from them?

22 A. Yes, it would be,

23 Q. And if you combine a pooling order, would

24

1 the leasing efforts that you've been successful in, would
2 all...would it be your opinion that all of the interests and
3 claims and conflicting claims of folks in these three units
4 would indeed be protected and covered?

5 A. Yes, it would.

6 Q. Okay. Is the reason that each of these
7 units is being pooled, essentially that you have been unable
8 to reach an agreement with the Rogers?

9 A. Yes, with those interests, yes.

10 Q. Okay. Because the only folks that are
11 listed as respondents are essentially the Rogers and their
12 lessors---?

13 A. Yes, it is.

14 Q. ---or farm outs?

15 A. Yes.

16 Q. Okay. And in...in one unit, they've got a
17 pretty substantial interest of 46% and change, right?

18 A. Yes.

19 Q. In another, they've got 6.9%?

20 A. Yes.

21 Q. And in another, they've got 22.4719%?

22 A. Yes.

23 Q. Okay. So, in each of these three units,

24

--

1 there are other people who have combined interests of at
2 least more than 50%---?

3 A. Yes.

4 Q. ---who are not here today objecting?

5 A. Correct.

6 Q. And you don't want to add anybody as a
7 respondent or dismiss anybody, I take it?

8 A. No.

9 Q. Okay. And we've already talked about what
10 you did to notice these people of the---?

11 A. Correct.

12 Q. ---hearing today?

13 A. Yes.

14 MARK SWARTZ: That's all I have.

15 BENNY WAMPLER: Questions from members of the Board
16 of this witness?

17 (No audible response.)

18 BENNY WAMPLER: Mr. Mullins.

19 TOM MULLINS: Thank you.

20

21

22 CROSS EXAMINATION

23 QUESTIONS BY MR. MULLINS:

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1 Q. Mr. Arrington I'd like to ask you some
2 questions concerning your exhibit C. We'll start with well
3 B-50. Actually, just get all three of them handy, I'll be
4 asking questions on all three. Now, the heading of it is
5 Exhibit C and then the particular unit number and the
6 particular VGOB number, but it also has estimated/actual.
7 Are all of these estimated?

8 A. Yes, they are.

9 Q. Okay. Now, site preparation for each one of
10 these three, what does that include?

11 A. Construction.

12 Q. Does it include roads?

13 A. Yes.

14 Q. Do you know the road lengths?

15 A. Not at hand.

16 Q. Okay. Survey and permits, is that a fixed
17 cost across all of your wells but it doesn't vary?

18 A. It's pretty much an average cost.

19 Q. Is that a fixed cost that doesn't vary or it
20 does vary?

21 A. It does vary on the well...per well site.
22 It's according to the location of the wells.

23 Q. Are any of these wells situated in an area
24

1 or in such a way that would estimate it to be the same for
2 all three?

3 A. My surveying costs are real close to these
4 averages and that's the reason I use \$9,000.

5 Q. So, that may not be representative of each
6 of these individual wells? It's just an average across how
7 many different wells?

8 A. It's our average over the year or past years
9 that we use. The site cost does include gravel.

10 Q. Okay. Do you have a...I would assume cement
11 and cement services is a contracted full rate that's the same
12 in every individual well?

13 A. It's not the same. But, again, that's an
14 average.

15 Q. Okay.

16 A. We haven't drilled the wells yet. So, it's
17 not a real cost.

18 Q. The pumping unit on line number 207, is that
19 what a pumping unit costs now \$4,350?

20 A. I can only say that's what we use as our
21 costs.

22 Q. Do you know what the cost of a pumping unit
23 is now?

24

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1 A. I do not have that at hand.

2 Q. Are all the numbers that are the same from
3 the one AFE to the next AFE just averages across all your
4 wells that you've used to prepare these AFEs?

5 A. Yes, they are.

6 Q. And they may or may not represent the best
7 estimate of these wells...these particular wells?

8 A. Oh, I think they do represent the best
9 estimate.

10 Q. So, there has been some independent study
11 for these particular wells to make sure that these cost
12 estimates correlate to these wells?

13 A. I believe, these are, again, average costs
14 on items that we used. If you will notice on the drilling,
15 that should be...that's using the actual drill depths that we
16 may encounter.

17 Q. I understand. But the actual costs that you
18 incur are different than what's on these AFE's?

19 A. Certainly, that's what it's called.

20 Q. From what I understood you to say,
21 the...these were based upon cost per field averages?

22 A. Yes, sir, for us.

23 Q. Has there been any analysis done to show
24

1 that these costs, as reflected on the AFEs for these
2 individual units, have you done any investigation to make
3 sure those costs are the best estimate for these particular
4 units, not across your entire average, but for these
5 particular units?

6 A. Well, we use the actual proposed drilling
7 depths and then the remaining of it is the cost that we see
8 in...on our field, you know, average.

9 Q. Electrical installation and running power to
10 it, it's the same in every particular unit?

11 A. Again, I have to estimate that cost until we
12 actually get there.

13 Q. Is that not based upon distance from the
14 last substation or your last point of power to the wellhead?

15 A. Well, again, it's an estimated cost.

16 Q. I understand. What I'm trying to figure out
17 is it an estimated cost company wide or is it for this
18 particular well?

19 A. Broad.

20 Q. But it's not--?

21 A. Company wide.

22 Q. ---for this particular well?

23 A. No. It's an estimated cost.

24

--

1 Q. Do you have any estimated production for
2 these wells?

3 A. I believe, the estimated production for
4 these wells are stated in our application of 125 to 550.

5 Q. Have you got any flow rate estimates?

6 A. No.

7 Q. I think I asked you this earlier, but have
8 core holes been drilled in each..each and around...excuse me,
9 have core holes been drilled around each of these units?

10 A. I don't have that data with me to know where
11 the core holes have been drilled in these areas. We do have
12 core holes, but to tell you the exact locations, I don't have
13 those.

14 Q. In and around this area?

15 A. Yes.

16 Q. Okay. Is any of that data utilized to come
17 up with any of these estimates?

18 A. No. Estimates? Are you talking about the
19 reserves or the costs?

20 Q. Both.

21 A. Well, they certainly weren't used on the
22 costs and on the reserves, I'm sure Mr. Toothman used that to
23 come up with his analysis of the estimated reserves.

24

--

1 Q. So, you're relying upon Mr. Toothman for the
2 reserve information set forth in the application?

3 A. Yes.

4 Q. Are all of the frac jobs that you all do the
5 same?

6 A. The basics...the basic two of them, yes.

7 Q. I understand the basics. Are all of the
8 frac jobs that you do the same?

9 A. No. The procedure is the same type of
10 procedure.

11 Q. The average is over what period...on the
12 cost factors for the AFEs, how far back does the data go that
13 you utilize?

14 A. On this in...on...for my AFE?

15 Q. Yes, sir.

16 A. It's probably just this year...this past
17 year.

18 Q. Do you know?

19 A. Well, we go...what we use we go back and
20 look at our actual cost on the surrounding wells and...and do
21 the average.

22 Q. I understand. I'm asking you how old it is
23 and you said probably, do you know?

24

1 A. No, not with going...not without going back
2 and pulling all of the data that I used, no. I can tell you
3 the...the drilling costs is actual contract costs.

4 Q. What average...since we're into average,
5 what is the average margin of error on your AFE versus actual
6 costs?

7 A. I've actually done some of that and it's
8 certainly less than 10%.

9 Q. What's the highest variance that you've
10 noticed?

11 A. I have had some that was quite large due to
12 the change in frac design. But, again, that was across the
13 field.

14 Q. And what change...what was the factor that
15 made you change the frac design?

16 A. Coal thickness.

17 Q. Okay. Would you use the core sample to be
18 able to determine that?

19 A. No, we used the E logs.

20 Q. Now, you say it was 10%, I'm assuming it was
21 10% or less?

22 A. Yes, that's correct.

23 Q. That's what you said?

24

--

1 A. Uh-huh.

2 Q. Over it, was that an overage?

3 A. No.

4 Q. Okay. So, you're talking about a range of

5 the between 10, plus or minus?

6 A. It can be, yes.

7 Q. But your average...actual overall average,

8 you said 10...I don't remember if you said less than 10%.

9 It was either 10%---

10 A. It was either plus or minus 10%.

11 Q. Well, it's one or the other.

12 A. It can either be over 10 or less than 10.

13 Q. For an individual well. I'm talking about

14 across the board.

15 A. It might...we may be more under on our

16 average costs.

17 Q. Is there any meter charge in your AFE?

18 A. No.

19 Q. How are you going to measure it?

20 A. We use total flows.

21 Q. How do you measure that, total flows?

22 A. I'm sorry.

23 Q. How do you measure that, total? Explain to

24

--

1 the Board and myself---.

2 A. It's electronic metering. And we---.

3 Q. Okay. Is there a charge or a cost
4 associated with that?

5 A. Not on this AFE.

6 Q. Is there a charge or cost associated with
7 that?

8 A. Yes, there is, but not on this AFE.

9 Q. Is that something that you don't contribute
10 as a cost to the well or well production?

11 A. We may move that meter someplace else if
12 this well is not successful.

13 Q. I understand. But that would be reflected
14 on another AFE that you---?

15 A. No, it would not.

16 Q. So, you don't charge or your company does
17 not charge for metering?

18 A. No.

19 Q. Okay. Or it doesn't charge on the AFE. I
20 think you said it does charge.

21 A. That is correct.

22 Q. Does it charge beyond the point of sale?

23 A. I can't answer that.

24

1 Q. You don't know that?

2 A. No.

3 TOM MULLINS: I believe, that's all I have right
4 now. Thank you.

5 BENNY WAMPLER: Mr. Mason.

6 GEORGE MASON: I have a few questions.

7

8 CROSS EXAMINATION

9 QUESTIONS BY MR. MASON:

10 Q. Mr. Arrington, just for clarification, B-50
11 you said was a makeup unit?

12 A. To the state line, yes.

13 Q. To the state line, all right. And where is
14 the well located? Will that be within the interior window or
15 just---?

16 A. On B-50?

17 Q. Yes.

18 A. It will be.

19 Q. All right. What about D-47?

20 A. It's within the drilling window.

21 Q. All right. And what about E-43?

22 A. It is not within the drilling window.

23 Q. All right. So, you are requesting
24

--

1 a...you'll need to make an exception location, correct?

2 A. Yes.

3 Q. Just for clarification, because there's been

4 testimony about the Rogers Heirs and also the LBR Holdings,

5 LLC. The Rogers that you are speaking to, is that LBR

6 Holdings, LLC or are those individual Rogers Heirs?

7 A. Both. It will be both of them.

8 Q. All right. As to D-47, could you look and

9 see which you have is the amount that is going to be pooled

10 representing escrow?

11 MARK SWARTZ: Which is it?

12 GEORGE MASON: D-47

13 MARK SWARTZ: No, no. Escrowed or pooled?

14 ERTEL L. WHITT, JR.: Escrowed.

15 MARK SWARTZ: Okay.

16 GEORGE MASON: My attorney here for clarification

17 here.

18 A. Well, I can calculate it real quick, but

19 it's going...whatever that amount of interest under paragraph

20 2, oil and gas fee ownership listed under B, C, D, E, F, G

21 and H, whatever that total would be.

22 Q. All right. Now, we don't have that

23 application. What is...is it...I think you testified, not

24

1 trying to trick you up or anything because...one-quarter?

2 A. Yes, one-quarter of the 69, I'm sorry.

3 Q. Rather than twelve and one-half percent it's

4 one-quarter?

5 A. Uh-huh. It will be of this interest that's

6 shown here.

7 Q. What about E-43?

8 A. Again, it would be the one-quarter of the

9 interest shown there.

10 Q. All right. A couple of other questions. On

11 your costs on your AFE, do you have the line item for

12 pipeline or gathering line charges?

13 A. I do.

14 Q. Where...what is that amount and where is it

15 on the AFE?

16 A. I believe, if you'll notice on my AFE...I

17 believe, if you'll notice that that dollar figure is blank.

18 Q. Where is it?

19 A. It's blank.

20 Q. Blank?

21 A. Yes

22 Q. Okay. What should be that cost, actual or

23 estimated?

24

1 A. I can't...I don't understand your question.

2 Q. What would be the last...all right. It's

3 not on the...it's not on your F...AFE---?

4 A. Right.

5 Q. ---all right. What would be your

6 estimated...if this is an estimate---?

7 A. Uh-huh.

8 Q. ---what would be your estimated cost for

9 pipeline and gathering line charge?

10 A. It's not included on our AFEs.

11 Q. Why not?

12 MARK SWARTZ: Because it's a collection cost.

13 A. It's a collection cost.

14 GEORGE MASON: No further questions.

15 BENNY WAMPLER: Have I covered everybody here? Mr.

16 Swartz, do you have any---?

17 MARK SWARTZ: Nothing.

18 BENNY WAMPLER: Questions from members of the

19 Board?

20 (No audible response.)

21 BENNY WAMPLER: Is there a motion?

22 MARY QUILLEN: Mr. Chairman, is this for all three

23 that we're doing or are we doing one docket at a time?

24

--

1 BENNY WAMPLER: Either way, it's up to the Board on
2 making the motion.

3 GEORGE MASON: Mr. Chairman. I still have a
4 witness with a few questions.

5 BENNY WAMPLER: Okay. Go ahead.

6 GEORGE MASON: All right.

7 TOM MULLINS: I had one more of Mr. Arrington, if
8 that's okay. I don't want to---.

9 BENNY WAMPLER: That's fine.

10 TOM MULLINS: Okay.

11

12 CROSS EXAMINAION RESUMES

13 QUESTIONS BY MR. MULLINS:

14 Q. The pipeline costs or the gathering line
15 costs, which side of the meter is that on?

16 A. I guess, it would be called the downstream
17 side, the collection side...I'm mean, sure.

18 Q. So, is the meter the pipeline or well?

19 A. It will start at the meter.

20 Q. And the meter is located where?

21 A. At the wellhead.

22 Q. And so there is...but there is no cost for a
23 meter on there and when you're doing total flows?

24

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1 A. No, sir, there isn't.

2 Q. Okay.

3 BENNY WAMPLER: Mr. Mason.

4

5 ERTEL L. WHITT, JR.

6 DIRECT EXAMINATION

7 QUESTIONS BY MR. MASON:

8 Q. Mr. Whitt, I'd just notify you that you're
9 still under oath.

10 A. I recognize that.

11 Q. Right. Would you give us the information on
12 ownership for D-47. It may be a little bit different
13 from...different from what Mr. Arrington explained.

14 A. Yes. D-47 is the unit with LBR Holdings
15 Tract NO. 2 and in that ownership scenario, on Tract No. 2
16 LBR Holdings owns 87.5% rather than 75% of that unit...of
17 that tract. The same is true on E-43, it's part of the...
18 the part to be pooled is part of Tract 2 as well and, again,
19 LBR Holdings owns 87.5% as opposed to 75%.

20 Q. What about as to unit B-50?

21 A. B-50 is correct. We own 75% of Tract 13.

22 Q. All right. And LBR Holdings has previously
23 objected to these three wells on what basis starting with B-

24

--

1 50?

2 A. B-50 on the 2500 foot rule.

3 Q. As a what owner?

4 A. Coal owner.

5 Q. What about D-47?

6 A. I don't recall that we've objected on D-47.

7 Q. Other than as a royalty owner?

8 A. I don't recall that either.

9 Q. What about unit E-43?

10 A. The 2500 foot rule there. There are three

11 wells within 2500 foot of that well.

12 Q. All right. And objected as to what owner?

13 A. As coal owner.

14 Q. And as LBR Holdings, are they in support of

15 the competing application of GeoMet?

16 A. Yes, sir.

17 Q. As to all three wells?

18 A. Yes, sir.

19 Q. And what's the basis of that support?

20 A. Economic. We consider GeoMet to be a better

21 operator. They pay us a higher royalty rates and they get

22 more gas...more gas per well.

23 GEORGE MASON: No further questions at this time.

24

1 BENNY WAMPLER: Mr. Arrington, do you agree with
2 the 87.5%? Do you have any reason to dispute that?

3 LESLIE K. ARRINGTON: I don't have any reason to
4 dispute that. We can certainly correct the exhibits.

5 BENNY WAMPLER: So, that would be 12.5% instead of
6 25% on both E-43 and D-47?

7 LESLIE K. ARRINGTON: Yes.

8 BENNY WAMPLER: And we'd ask you to correct those
9 exhibits and submit them to Mr. Wilson---.

10 LESLIE K. ARRINGTON: Yes.

11 BENNY WAMPLER: ---reflecting that.

12 GEORGE MASON: Thank you, Mr. Chairman.

13 BENNY WAMPLER: Anything further?

14 MARK SWARTZ: No.

15 TOM MULLINS: No questions of him...one question of
16 clarification.

17

18 CROSS EXAMINATION

19 QUESTIONS BY MR. MULLINS:

20 Q. You spoke of and testified concerning the
21 royalty rate from GeoMet. I believe your testimony was it
22 was a higher royalty rate.

23 A. A higher sales price is what I meant to

24

--

1 say.

2 Q. And Les---?

3 A. We get a higher royalty dollar from...for
4 each unit that's sold off of the GeoMet wells as opposed to
5 CNX. The royalty rate is the same one acre.

6 Q. And the...what about deductions? Do you
7 know of any?

8 A. I'm not sure about deductions.

9 Q. Okay. You just know you get more money.

10 A. I know we get more money and, in fact, in
11 fact, in one month it was almost double.

12 TOM MULLINS: I don't believe I have any more of
13 him.

14 BENNY WAMPLER: Go ahead if you have one.

15 TOM MULLINS: Is he still considered sworn?

16 BENNY WAMPLER: Just remind him he's still under
17 oath.

18 TOM MULLINS: You're still under oath.

19

20 JEFF TAYLOR

21 CROSS EXAMINATION

22 QUESTIONS BY MR. MULLINS:

23 Q. Would you please state your name?

24

--

1 A. Jeff Taylor.

2 TOM MULLINS: And I'd like to incorporate his prior
3 testimony as to his educational background and employment.

4 BENNY WAMPLER: That's fine.

5 TOM MULLINS: Thank you.

6 Q. GeoMet has some competing applications
7 concerning these three wells, is that correct?

8 A. Yes.

9 Q. Where are those pending right now?

10 A. They reside with the Director.

11 Q. And they have not been ruled on as we sit
12 here today?

13 A. No, sir.

14 Q. Okay. And you have come here today to
15 explain to the Board your position as to why GeoMet's
16 operation of these units is superior to CNX's operation, is
17 that correct?

18 A. Yes, sir.

19 Q. What information do you have available to
20 demonstrate that to the Board?

21 A. To start with, I would like to draw your
22 attention to the unit D-47 and we...we actually have two
23 wells that are in Virginia that are directly adjacent to unit
24

1 D-47 on the north and northwest and CNX has two wells that
2 are directly adjacent to that unit, one being on the east and
3 the other one being on the south. To...to be able to clarify
4 this, I'll just go ahead and pass these out.

5 Q. And you have a map depicting the units of
6 which you are speaking, is that correct?

7 A. Yes.

8 TOM MULLINS: Pass those around, please.

9 A. I'm not for sure of the...I don't what the
10 exhibit.

11 TOM MULLINS: What exhibit number should we ascribe
12 to this, Mr. Chairman? I think we're starting fresh.

13 BENNY WAMPLER: This one...from your standpoint
14 this would be an A...Exhibit A.

15 TOM MULLINS: Yes, sir. All right. Could you
16 explain to the Board what Exhibit A is?

17 A. Exhibit A is a map depicting the 80 acre
18 field rule grid of Virginia with our Rogers 164 and 165 well
19 depicted in unit C-46 and C-47 of which I have production
20 history on those wells, as well as I have production history
21 on units E-47 and D-48 of Consol. I think that we're in
22 close enough proximity there to where this should be a real
23 life example of whichever one of us go in there and drill

24

--

1 this unit of the possible outcome as far as production and
2 reserves to be recovered. At this time, I'd like to pass out
3 Exhibit B, which is production graphs from these wells.

4 TOM MULLINS: Let's let those get passed out and
5 I'll let you explain that to the Board as well. Mr.
6 Chairman, with your leave, I'll mark this B.

7 BENNY WAMPLER: Exhibit B.

8 Q. And could you explain to the Board, please,
9 what this chart shows and demonstrates?

10 A. Yes. The blue line and the red line are the
11 two GeoMet wells adjacent to unit D-47 of which there's about
12 thirteen months worth of production history on those wells.
13 They are a relatively new well. The pink or fushia line and
14 the black line in CNX's well D-48 and CNX's well E-47, which
15 is about thirty-eight months and forty months worth of
16 production from those wells that has been obtained from the
17 Director's office. These...these CNX wells go through the
18 end of December of '05, which is what's currently on record
19 at the Director's office. As you can...as you can see, there
20 is a astronomical difference in our two wells versus theirs.
21 Theirs is continually up and down. There's no steady
22 production from them. Each of our wells came on line and are
23 operating at a steady, substantial economic rate to where it

24

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1 benefits GeoMet, the company, the royalty owners, the
2 Commonwealth, Buchanan County, all of us win in this
3 scenario. Ironically enough, if you look at the cum on our
4 two wells over that thirteen month period of approximately
5 131 mcf when you look at both of them together versus the cum
6 of their thirty-eight month well and forty month well of
7 approximately 110 mcf. We've accomplished approximately
8 twenty more mcf of reserves out of the ground in a thirteen
9 month period than they have in a approximately forty month
10 period. It's pretty overwhelming if you ask me.

11 Q. Okay. What else do you have to offer to the
12 Board concerning the issue concerning GeoMet as an operator?

13 A. Actually, I think this speaks fairly well.
14 I've got some other...other drafts of essentially all of our
15 wells in Virginia and some CNX wells adjacent.

16 Q. Do you consider these to be the most
17 representative for unit D-47?

18 A. Most definitely. I don't see anyway
19 around...around those being...we have surrounding units
20 there.

21 Q. Do you have any reason to believe that if
22 GeoMet were to be the operator of unit D-47 that it would
23 produce in the neighborhood of what you see in unit C-47 and
24

1 C-46?

2 A. I think we have a pretty good track record
3 going there for those units.

4 Q. I don't think I have anything further at
5 this---.

6 A. The---.

7 Q. I didn't mean to cut you off.

8 A. Okay

9 Q. If you want to...if you need finish your
10 answer, you may. I didn't mean to cut you off.

11 A. One of the things that I would like to point
12 out with this graph also, if you follow their production
13 along up and down above the 50 mark and whatever it goes down
14 to and just draw a straight line, just assuming 50,000 a day.
15 Earlier they gave testimony that the infield drilling took
16 them from a 2500 a day to a 3 million a day volume increase
17 of 500,000 a day increase. That's about a 20% increase
18 essentially is what we're looking there. So, if we add 20%
19 to their 50,000 taking it to 60,000 and we put two wells in
20 that particular unit and tallying them up to 120,000, their
21 two wells on their infield drilling program, is still less
22 than our lowest producing well there.

23 TOM MULLINS: I don't have anything further of this

24

--

1 witness.

2 BENNY WAMPLER: Is this representative of all the
3 wells that you drill?

4 JEFF TAYLOR: We have a pretty good track record.

5 BENNY WAMPLER: Is it representative of all the
6 wells that you drill?

7 JEFF TAYLOR: I feel that we've got a good average.
8 I've got the Virginia wells here if you'd like to see them.
9 I'll let you make that call. I would also like to render as
10 an exhibit, if I'm going to exhibit the rest of our Virginia
11 wells, also CNX's wells in this adjacent area, so we can look
12 at a few more of theirs.

13 TOM MULLINS: Would you like me to label these C
14 and D?

15 BENNY WAMPLER: Yes, please.

16 JEFF TAYLOR: Yes. The GeoMet will be C and the
17 CNX adjacent to B-50, D-47 and E-43 will be the next.

18 TOM MULLINS: D.

19 BENNY WAMPLER: Is this for the Virginia wells
20 information you're giving me?

21 JEFF TAYLOR: Yes. It's both GeoMet wells and CNX
22 wells.

23 SHARON PIGEON: Is it only the Virginia wells? is
24

1 that what you're saying?

2 JEFF TAYLOR: It appears we don't like West
3 Virginia testimony.

4 BENNY WAMPLER: Well, we don't have any ability to
5 make a decision no more than do...no more than we let West
6 Virginia.

7 TOM MULLINS: We used to all be together.

8 BENNY WAMPLER: That's true. That's a whole
9 another subject.

10 JEFF TAYLOR: I've scaled the two graphs the same
11 so you can lay them side by side to give you a good idea of
12 the difference in the two companies.

13 TOM MULLINS: One thing I would like to point out
14 to the Board, while the scale on the vertical axis will be
15 the same, the scale horizontal axis one is months and one is
16 days.

17 JEFF TAYLOR: Yes.

18 MARY QUILLEN: Uh-huh. That's makes a difference.

19 TOM MULLINS: So, if you went out to month number
20 thirteen or fourteen---.

21 JEFF TAYLOR: On the CNX.

22 TOM MULLINS: ---on the CNX, that would be the same
23 relative time period.

24

1 BENNY WAMPLER: Anything further?

2 TOM MULLINS: I don't.

3 BENNY WAMPLER: Mr. Swartz.

4

5 CROSS EXAMINATION

6 QUESTIONS BY MR. SWARTZ:

7 Q. What is CNX's overall average of all of
8 their wells in Virginia?

9 A. I'm not qualified to answer that.

10 Q. Would it be that you don't know the answer
11 to that question?

12 A. I do not know the answer to that.

13 Q. But you know the answer to the question for
14 your company because you only have five wells, right?

15 A. I'm just depicting the wells that is in the
16 area.

17 Q. Well, does GeoMet have more than five CBM
18 wells in Virginia?

19 A. We have six, actually. The sixth one is
20 very new. It's data that's pretty much irrelevant at this
21 time.

22 Q. How long has it been producing?

23 A. Six months, maybe.

24

--

1 Q. How is it doing?

2 A. It's doing fine.

3 Q. Well, is it a blue, a fuschia or an orange?

4 A. Probably between a fuschia and an orange

5 right now.

6 Q. So, it's definitely not a green?

7 A. It's definitely not a green, I will say

8 that.

9 Q. Do you have core data...strike that. You

10 have logs for these wells, right?

11 A. Yes, we do.

12 Q. Okay. What's the feet of coal that you're

13 producing from the five wells that you've got on your chart?

14 TOM MULLINS: I object to that. That gets

15 into...we're here today on force pooling. We're here today

16 on issues concerning production and force pooling of these

17 three units. What they're asking now is leading the

18 information concerning proprietary information and I object

19 to that. That's not admissible.

20 BENNY WAMPLER: Mr. Swartz.

21 MARK SWARTZ: My response would be, if they don't

22 want to allow me to enquire into explanations for why one

23 well might produce differently than another, that's cool.

24

1 But then I would move to strike this data because, you know,
2 it's just...you know, either we go the distance and we try to
3 explore, you know, coal thickness and frac designs and so
4 forth and we really try to look at why wells might produce
5 differently and we look at water issues and so forth or we
6 just don't go there at all and it's fine with me. I mean, I
7 don't care if I get answers, but there's got to be a
8 consequence.

9 BENNY WAMPLER: Well, I was going to overrule the
10 objection because the coal thickness is definitely relevant
11 to production, I think and---.

12 TOM MULLINS: Drilling log information, I thought,
13 was statutory protected.

14 BENNY WAMPLER: I'm sorry?

15 TOM MULLINS: I said, I thought drilling log
16 information was statutorily protected.

17 BENNY WAMPLER: Well, he can say on average. He
18 can say whatever. He doesn't have to be specific. But
19 that's up to you as to whether he answers it. I'm just
20 saying to me the question is not out of line...the question..
21 when you are putting charts and comparing one operator being
22 better than the other operator.

23 A. I would like to answer insomuch as saying

24

--

1 that we, based on this information, that it is obvious that
2 we can produce gas out of this area better than they can. I
3 think there is a uniqueness to our company. There is some
4 differences between CNX and GeoMet that makes us unique.
5 That's why we say we're the better operator. If I divulge my
6 secrets to him, then we're not unique anymore. They've had
7 the same opportunity to drill through the same coal seams
8 that we do...to stimulate the same coal seams we do. They
9 have their frac design and we have ours. That's the
10 uniqueness of this. That's what makes us, I feel, the better
11 operator. So, that information, I think, is for them to
12 figure out and for them to improve on their production.

13 MARK SWARTZ: Our response, is if you're going to
14 compare apples and oranges and argue they're apples and
15 apples you need to let people in on your opinion.

16 BENNY WAMPLER: I think, I've already said---.

17 MARK SWARTZ: So, I'm not going to---.

18 BENNY WAMPLER: ---it's a relevant question.

19 MARK SWARTZ: And I'm not going to argue with the
20 guy. I mean, if he doesn't want to give me an answer, that's
21 fine with me. But then, I think, you know, I've got a right
22 to strike some of this---.

23 BENNY WAMPLER: I will entertain your motion to
24
--

1 strike the information presented.

2 MARK SWARTZ: That's---.

3 TOM MULLINS: I'd like to...before he makes that
4 motion, I'd like the Board to take judicial notice of its own
5 records in the Inspectors office that supports these...you
6 can strike these exhibits, but the information is of record
7 and is noticeable by this Board whether you strike it or not.

8 PEGGY BARBAR: Mr. Chairman.

9 BENNY WAMPLER: As we look at these graphs, it
10 seems to me that we are asked to look at CNX and over a
11 period of three and a half years we see their data, it's very
12 steady and very regular production. And yet when we're
13 looking at GeoMet wells and we're looking at a year's worth
14 of data. To me, it's very hard to compare that because
15 we're seeing a nice little spike at the very front but we
16 don't...you know, we're seeing CNX as if they're not
17 producing as much when we don't even have the data for the
18 two and a half years beyond, you know, what I think we're
19 being asked to compare with. And then on the GeoMet and CNX
20 wells, you know, we've got roughly a year's production worth
21 of data to look at when...we don't know what's happening or
22 going to happen after that one year and yet we're looking at,
23 you know, over three years of production data for CNX. It's

24

--

1 just not a good...it's not enough data to really say one is
2 doing well. It's kind of like getting a new car. What's it
3 going to be like after three years versus what's it going to
4 run like in the first year? For me, now, I just...this
5 information is not a good comparison.

6 MARY QUILLEN: Mr. Chairman, I also have a comment
7 about these because they're in different time frames. One is
8 on days and one is on months. And when you want to compare
9 something as in graphs, they have to be in the same time
10 frame to really get a clear picture.

11 PEGGY BARBAR: I mean, you can even convert that
12 and this one you've got a year and you're going to get three
13 and a half years---.

14 BENNY WAMPLER: Right.

15 PEGGY BARBAR: Why is happening after this one
16 year? Why did you do that? Why did you show me your
17 calculations in days and you show me CNX in months?

18 JEFF TAYLOR: That's all the information I have on
19 those wells.

20 PEGGY BARBAR: So, that's the life of the well?

21 JEFF TAYLOR: That's the life of the well right
22 now. I would like to draw your attention to the previous
23 Exhibit B that has both of our wells in months, that is

24

--

1 surrounding the unit D-47. And as I stated in my testimony,
2 we have a cum out of those two wells that is approximately 20
3 million greater than what they do over a forty...thirty-eight
4 to forty month period.

5 TOM MULLINS: What is a cum? When you say cum,
6 what does that mean? That may not mean anything to a guy
7 like me who's not in the gas business.

8 JEFF TAYLOR: To give you an idea, they say that
9 they're going to produce 125 million to 550 million cubic
10 feet out of this 80 acre unit. For instance, the 164 well
11 has already produced approximately 75 mcf in a thirteen month
12 period. We're almost...almost to their low end number on
13 their reserve estimate for that unit in a thirteen month
14 period.

15 PEGGY BARBAR: Well, that would have been...
16 might...would appear to be your advantage on a graph rather
17 than this. The production over at the actual period of time
18 would be something to see. I mean, we hear that but we...I
19 thought we were talking about these particular exhibits and
20 how they're being used.

21 TOM MULLINS: I think that's what...that's what
22 Exhibit B shows. Exhibit B shows four months on line. The
23 production of the wells of these particular units---.

24

--

1 PEGGY BARBAR: For one year? A little over a year?

2 TOM MULLINS: Right. And what I understood his

3 testimony to be, if you took the cumulative production of the

4 GeoMet well 164 and the GeoMet production in well 165, it

5 exceeds in thirteen months the total production of the CNX

6 wells on adjoining units for thirty-eight and forty months.

7 So, it is an apples to apples comparison.

8 JEFF TAYLOR: And to put it in dollar

9 perspective---.

10 PEGGY BARBAR: Not if you stay in production for

11 three years. You don't know what's going to happen. You've

12 already made---.

13 TOM MULLINS: We've already beat them.

14 PEGGY BARBAR: You've already made---.

15 JEFF TAYLOR: I've already beat them.

16 PEGGY BARBAR: I know you've already made what

17 they're making, but in essence...well---.

18 JEFF TAYLOR: To put it in today's dollars, let's

19 just assume \$7 per thousand cubic feet of gas in today's

20 market. The 164 well doing 200,000 cubic feet a day, 7 times

21 200,000 or 1400...\$1400 a day. 50 mcf a day well, 50 times

22 seven, \$350 a day. So, do you want \$1400 a day in your

23 pocket or do you want \$350 a day in your pocket and that's up

24

1 for you all to decide?

2 MARY QUILLEN: Mr. Chairman, I have a question for
3 Mr. Arrington. D-47 and D-48, when did those two wells begin
4 production?

5 LESLIE K. ARRINGTON: D-47, we don't have a well in
6 that unit yet. We do have D-48 and---.

7 GEORGE MASON: E-47?

8 MARY QUILLEN: I mean...sorry. I'm sorry, E-47 and
9 D-48.

10 LESLIE K. ARRINGTON: Oh, E-47.

11 MARY QUILLEN: My mistake, sorry.

12 LESLIE K. ARRINGTON: I don't have that date right
13 here before me. You know, I'd have to---.

14 MARY QUILLEN: But it has been in production for
15 some time---?

16 LESLIE K. ARRINGTON: Some time, yes.

17 MARY QUILLEN: ---for some time? They've both in
18 production for some time?

19 LESLIE K. ARRINGTON: Yes.

20 MARY QUILLEN: So, if you---.

21 JEFF TAYLOR: For thirty-eight and forty months.

22 MARY QUILLEN: Excuse me.

23 JEFF TAYLOR: For thirty-eight---.

24

--

1 MARY QUILLEN: Excuse me.

2 JEFF TAYLOR: Okay, sorry.

3 BENNY WAMPLER: Yeah, don't be interrupting the
4 Board members.

5 MARY QUILLEN: If you looked at your production
6 when this...these two wells began, just...do you have any
7 knowledge of what kind of production these two wells had at
8 the very beginning? You don't have that?

9 LESLIE K. ARRINGTON: I don't have that with me.

10 MARY QUILLEN: Okay, okay.

11 PEGGY BARBAR: Question, Mr. Chairman.

12 BENNY WAMPLER: Ms. Barbar.

13 PEGGY BARBAR: So, the data that we're seeing here,
14 is this...is this the birth of this well?

15 LESLIE K. ARRINGTON: It should be. I mean, I have
16 to depend on...I did not...I don't bring production data with
17 me.

18 PEGGY BARBAR: So, the data we're seeing on the
19 last exhibit isn't comparing from the beginning...the
20 starting point of all wells?

21 MARK SWARTZ: That's what they're telling us.

22 LESLIE K. ARRINGTON: That's what they're telling
23 us...again.

24

1 BENNY WAMPLER: Are you through?

2 MARY QUILLEN: Uh-huh.

3 BENNY WAMPLER: Mr. Swartz.

4

5 CROSS EXAMINATION RESUMES

6 QUESTIONS BY MR. SWARTZ:

7 Q. Would you agree with me that there are
8 things that are going on underground that can affect the
9 production of a well?

10 A. I would agree to some extent, but not from
11 one 80 acre unit to the other. It's very minimal from one 80
12 acre unit to the other.

13 Q. Could the amount of coal that is being
14 produced, the coal thickness, have an affect on the gas
15 production from a well?

16 A. I think the amount of coal would have an
17 affect on the amount of reserves you have in the ground.

18 Q. And could that affect your production?

19 A. Over the life of the well, not up front all
20 that much.

21 Q. Okay. So, what you're telling me, if you've
22 got two wells and one has got 20 feet of coal that has been
23 fraced and producing from and one has got 40, there shouldn't

24

--

1 be much difference?

2 A. I'm saying it's a difference in reserves.
3 Reserves are based on cubic feet per ton. If I had 40 feet
4 of coal, I have a larger reserve based in that 80 acre unit
5 than I do if I have 20 feet of coal.

6 Q. Now, let me understand you correctly, if you
7 frac your...are you telling me that if you frac 40 feet of
8 coal and you are now producing out of an open hole
9 into...from 40 feet of coal and another well is fraced and
10 producing from 20 feet of coal, you wouldn't expect a daily
11 production to be different. You would just expect the
12 production over many, many years to somehow be different?

13 A. The daily production actually can probably
14 be pretty close. I'm saying that the reserves will be
15 different if you have a different coal thickness.

16 Q. I really need an answer here. Is it your
17 position---.

18 A. I gave it.

19 Q. ---that if you have two wells that one is
20 completed into 40 feet of fraced coal and one is completed
21 into 20 feet of fraced coal you would suspect or expect their
22 daily production to be roughly equal, is that what you're
23 telling me?

24

--

1 TOM MULLINS: Asked and answered. He already
2 answered that question.

3 BENNY WAMPLER: I agree, he answered the question.

4 Q. What's rock pressure?

5 A. A pressure is the amount of stress, the over
6 burden, is putting on the formation, basically.

7 Q. So, if you measure the pressure on a gas
8 well when it's shut in, are you measuring rock pressure?

9 A. To some...some extent on a CBM well, most
10 all CBM wells produce at a low...low wellhead pressure if you
11 want them to be efficient.

12 Q. My question to you is, if you put a pressure
13 gauge on a well that's shut in, are you reading the rock
14 pressure when you read the pressure gauge?

15 TOM MULLINS: Objection. That's not relevant to
16 anything that's before the Board here today. We're not
17 talking about shut-in wells. We're talking about force
18 pooling and production rates of actual producing wells.

19 BENNY WAMPLER: Well, I think you made that
20 relevant when you presented the production charts. I'm going
21 to see where he's going. I don't know exactly where he is
22 going myself but...but---.

23 JEFF TAYLOR: I don't either.

24

--

1 BENNY WAMPLER: But it could be relevant based on
2 the difference in production rates. So, if you will, answer
3 the question.

4 A. If you shut a CBM well in our area, the
5 shut-in pressure will vary from probably 150 pounds to 300
6 pounds, if it is a new well. If it is an older well that has
7 been producing, that shut-in pressure will not achieve that.
8 So, therefore, at that time the rock pressure is not acting
9 near as much on the coal formations below.

10 Q. So, I guess, your answer to my question, if
11 you shut-in a well and put a gauge on it what you read on the
12 gauge is the rock pressure?

13 TOM MULLINS: Objection. His answer speaks for
14 itself.

15 BENNY WAMPLER: I note his objection.

16 Q. That's the question and that was all I was
17 asking.

18 A. I'm saying to some extent rock pressure will
19 have an affect.

20 Q. Well, how do you measure rock pressure?

21 A. I'm not reservoir guy. We could ask Mr.
22 Hollingshead.

23 JOHN HOLLINGSHEAD: Are you talking core pressure?

24

--

1 TOM MULLINS: You're not a witness.

2 JOHN HOLLINGSHEAD: I'm sorry.

3 Q. Would you expect a coalbed methane well with

4 a 400 pound rock pressure at its inception to produce more

5 gas on a daily basis than a coalbed methane well with a 100

6 pound pressure on its...at its inception?

7 A. Can you tell me where...explain that where

8 you're going to get 400 pounds and where you're going to get

9 100 pounds. I'm not sure that I follow you.

10 Q. Are you telling me that no wells...coalbed

11 methane wells in the Oakwood field have had shut-in or rock

12 pressures of 400 plus pounds?

13 A. After they've come on production?

14 Q. In the beginning, when they're drilled and

15 they're waiting to be produced.

16 A. They're waiting to be produced?

17 Q. Right.

18 A. They're sitting there charged up with

19 nitrogen----.

20 Q. No, no, no

21 A. ---a lot of times what will give you 400

22 pounds at your wellhead. It is not the reservoir that you

23 will typically see.

24

1 Q. Okay. Well, let me ask you this, is the
2 rock pressure going to be different from well to well to some
3 extent?

4 A. Actually, I think you wind up looking at the
5 hydraulic grade in whether you're in the valley floor or on
6 the ridge and you will determine it based on your water
7 table. So it depends on the depth of the well as to
8 what...as to where the pressure would have a larger impact on
9 it or not. My personal experience is that the rock pressure
10 has minimal affect post frac job. The rock pressure does
11 have an affect during the frac job.

12 Q. Are you telling me that rock pressure varies
13 in relations to the water table, is that what you just said?

14 A. I'm...I'm saying---.

15 TOM MULLINS: His answer speaks for itself and the
16 rephrasing of it by Counsel does not recharacterize---.

17 MARK SWARTZ: I'm asking him if he made that kind
18 of connection. That's my question.

19 BENNY WAMPLER: You can ask him that.

20 A. I'm saying down hole pressure would be
21 related to the water table, yes.

22 Q. How many feet of coal did you frac in Rogers
23 164?

24

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1 TOM MULLINS: Objection. The same objection on
2 the privilege of confidentiality that was previously raised.

3 BENNY WAMPLER: Sustained.

4 MARK SWARTZ: I'm not going to full around with
5 this. I'm moving to strike all of the exhibits that compare
6 production because I either can't get an answer at all to
7 questions I think that could affect production or I get a...a
8 non-answer in the form of an answer. So, I move to strike
9 all of these exhibits. You know, either we're going to
10 explore rational reasons why production can differ from well
11 to well or we're not. And if we're not going to do it in a
12 rational way, it shouldn't be in it. So, I move to strike
13 this stuff and I'm...I'm concluded with this witness.

14 BENNY WAMPLER: They're stricken.

15 TOM MULLINS: May I respond for the record?

16 BENNY WAMPLER: You may.

17 TOM MULLINS: This information is information on
18 record in the Gas and Oil office. It is relevant information
19 that has been presented here today to establish the purposes
20 for which we have presented it. It is the duty of the Board
21 to review that information and to consider it whether it is
22 in the form of these charts or in the form of the information
23 on file with the Gas and Oil office before rendering a

24

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1 decision in this case. That's my objection.

2 BENNY WAMPLER: Well, I think the Board...you know,
3 I'll certainly let the Board address any of that. The
4 Board...you heard the Board members asking questions and
5 didn't get...well, got answers, but didn't...didn't feel like
6 that they were presented information that would compare
7 apples to apples in all cases. And when being cross
8 examined, when a witness will not answer the questions for
9 whatever reason on exhibits, then I think the exhibit can't
10 stand the test of being part of the consideration for that
11 particular purpose, not for the whole case, obviously. Mr.
12 Mason.

13 GEORGE MASON: I just had one housekeeping thing I
14 forgot to ask is if that the Board would incorporate his
15 prior work history and education...prior testimony on that
16 into the testimony here before us.

17 BENNY WAMPLER: That will be incorporated.

18 GEORGE MASON: Thank you.

19 BENNY WAMPLER: Do you have anything further, Mr.
20 Mullins?

21 TOM MULLINS: I do not, sir.

22 BENNY WAMPLER: Mr. Swartz?

23 MARK SWARTZ: No.

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1 BENNY WAMPLER: Board members, one thing I'd like
2 to clarify and may open up another question here, but what we
3 have before us is...is an application to pool these three...
4 these three wells that are proposed and understood, but to
5 pool those nonetheless. Some discussion intermingled that
6 which operator is the better operator. We have an
7 application from one operator with objections is what we
8 have, okay?

9 TOM MULLINS: I understand.

10 GEORGE MASON: Uh-huh.

11 BENNY WAMPLER: Okay. I'm just...I'm just getting
12 an agreement and I'm getting nods that we're in agreement
13 with that. Just so the Board is not confused on what we're
14 doing here.

15 GEORGE MASON: As to this petition?

16 BENNY WAMPLER: As to these three petitions.

17 BOB WILSON: Mr. Chairman?

18 BENNY WAMPLER: Mr. Wilson.

19 BOB WILSON: I might also remind folks that part of
20 what you're considering here is who you're naming as operator
21 of these units, in addition to pooling them, and that has
22 significant ramifications down the road as well.

23 BENNY WAMPLER: I thought I just clarified that. I

24

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1 just clarified and they agreed that we're dealing with the
2 application as presented by CNX.

3 BOB WILSON: Okay.

4 BENNY WAMPLER: Is there a motion?

5 (Mr. Ratliff confers with Mr. Wampler.)

6 DONNIE RATLIFF: Mr. Chairman, I move that we
7 approve the petitions...all three petitions.

8 MARY QUILLEN: Second.

9 BENNY WAMPLER: Motion and second. Any further
10 discussion?

11 (No audible response.)

12 BENNY WAMPLER: All in favor, signify by saying
13 yes.

14 (All members signify by saying yes.)

15 BENNY WAMPLER: Opposed, say no.

16 (No audible response.)

17 BENNY WAMPLER: You have approval. Thank you.

18 Good day, gentlemen. The next item on the agenda is a
19 petition from CNX Gas Company, LLC for pooling of coalbed
20 methane unit H-12. This is docket number VGOB-06-0620-1645.

21 I'd ask the parties that wish to address the Board in this
22 matter to come forward.

23 MARK SWARTZ: Mark Swartz and Les Arrington.

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1 BENNY WAMPLER: Let the record show there are no
2 others. You may proceed.

3

4 LESLIE K. ARRINGTON

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. SWARTZ:

7 Q. Les, you need to state your name for us,
8 again.

9 A. Yes, Leslie K. Arrington.

10 MARK SWARTZ: I'd like to incorporate Mr.
11 Arrington's testimony regarding the applicant and operator
12 standard lease terms and his employment from the prior
13 hearings.

14 BENNY WAMPLER: That will be incorporated.

15 Q. Les, did you prepare or caused to be
16 prepared the notice of hearing and the application for this
17 unit?

18 A. Yes, I did.

19 Q. What kind of unit is this?

20 A. It's an Oakwood 80 acre unit.

21 Q. And...and where is the proposed well or the
22 actual well?

23 A. It's not within the drilling unit...I mean,

24

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1 drilling window.

2 Q. Okay. So, it's outside the window?

3 A. Yes.

4 Q. What's your cost estimate with regards to

5 this unit?

6 A. \$313,068.59.

7 Q. The permit number.

8 A. 6591 to a depth of 2191.

9 Q. And...and would you tell the Board what your

10 standing is, what you've acquired and what you're seeking to

11 pool?

12 A. Yes. For this unit, we have 99.99936% of

13 the coal, oil and gas owner's claim to coalbed methane.

14 We're seeking to pool 0.0064% of the coal, oil and gas

15 owner's claim to coalbed methane.

16 Q. Have you listed all of the respondents in

17 the two blank on the notice of hearing and in Exhibit B-3 in

18 the application?

19 A. Yes, we have.

20 Q. Do...so, you don't want to add anybody or

21 subtract anybody today?

22 A. Just a minute. We have---.

23 BENNY WAMPLER: You might want to cool it just a

24

1 second until we get...get our...our revised information
2 because our numbers weren't matching up very well before.

3 MARK SWARTZ: That's because we've just been
4 leasing like crazy.

5 BENNY WAMPLER: That's good.

6 MARK SWARTZ: There you go.

7 A. You'll notice that we have an Exhibit B-2.

8 Q. Okay. The packet that...that the Chairman
9 just referred to, there...there's some revised exhibits with
10 regard to this, correct?

11 A. Right.

12 Q. And if we've got a B-2, it usually means
13 we're going to adjust the respondents, right?

14 A. Yes.

15 Q. Okay. And what...what's the adjustment
16 here?

17 A. We are removing several people. There was a
18 trust agreement that was listed incorrectly.

19 Q. Okay. And have you listed the folks that
20 are being dismissed and the reason for that in Exhibit B-2?

21 A. Yes, sir.

22 Q. Have you revised Exhibit B-3, the list of
23 folks that you are pooling accordingly?

24

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1 A. Yes, we have.

2 Q. And the net change and interest in the unit
3 as a result of these revisions actually decreased the
4 interest that you needed to pool---?

5 A. Yes, it did.

6 Q. ---from when the application when it was
7 filed it was .0083% and now it is .0064?

8 A. Yes, it is.

9 Q. Okay. What did you do to tell the folks
10 that were listed originally there was going to be a hearing
11 today?

12 A. Okay. In this unit, we noticed by certified
13 mail, return receipt May 19, 2006 and published May 26, 2006.

14 Q. And...and did you file proofs of publication
15 and proofs of mailing with Mr. Wilson in this regard?

16 A. Yes. Yes, we have.

17 Q. Is this one of the units that actually does
18 not require any escrow at all?

19 A. That's correct, it does not.

20 Q. Is the plan to develop this unit, which is
21 specifically to drill a frac well in...in the unit, a
22 reasonable plan, in your opinion, to produce...produce
23 coalbed methane from this unit?

24

1 A. Yes, it is.

2 Q. If we combined the leasing activities and
3 the acquisition activities of the applicant with the...with
4 the pooling order here pooling .0063% of the unit, is it your
5 opinion that we will have pre...included everyone and
6 protected all correlative interests and rights?

7 A. Yes, we will have.

8 MARK SWARTZ: Mr. Chairman, that's all I have on
9 this one.

10 BENNY WAMPLER: And your proposed well is outside
11 the drilling window?

12 LESLIE K. ARRINGTON: Yes, it is.

13 BENNY WAMPLER: What about your AFE? Have you
14 discussed that?

15 LESLIE K. ARRINGTON: I did that.

16 MARK SWARTZ: I asked him right away, but we can do
17 it again. It's okay.

18 BENNY WAMPLER: No, we were just getting
19 information handed out to us and we weren't following it.

20 MARK SWARTZ: Okay. No problem.

21 BENNY WAMPLER: And I didn't follow it. Would you
22 restate it?

23 MARK SWARTZ: Not a problem.

24

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1 Q. What...what's your well cost estimate and
2 give us the permit data and so forth?

3 A. Yes. Sure. Yeah, it's a...the well
4 estimate is \$313,068.59 to a depth of 2191. The permit
5 number is 6591.

6 BENNY WAMPLER: Questions from members of the
7 Board?

8 (No audible response.)

9 BENNY WAMPLER: Is there a motion?

10 DONNIE RATLIFF: Motion to approve.

11 SHARON PIGEON: I second.

12 BENNY WAMPLER: Motion to approve and a second. Is
13 there any further discussion?

14 (No audible response.)

15 BENNY WAMPLER: All in favor, signify by saying
16 yes.

17 (All members signify by saying yes.)

18 BENNY WAMPLER: Opposed, say no.

19 (No audible response.)

20 BENNY WAMPLER: You have approval.

21 MARK SWARTZ: 0-75 we were going to dismiss, which
22 is the next item.

23 BENNY WAMPLER: I gotcha.

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1 MARK SWARTZ: Okay.

2 BENNY WAMPLER: And we continued the 0-76 or not?

3 That's what I had earlier, we were continuing that.

4 MARK SWARTZ: Yeah, we were cont...we were

5 dismissing 0-75 and we continued by agreement 0-76.

6 BENNY WAMPLER: And the next is a petition from CNX

7 Gas Company, LLC for pooling of coalbed methane unit BK-110,

8 docket number VGOB-06-0620-1648. We'd ask the parties that

9 wish to address the Board in this matter to come forward at

10 this time.

11 MARK SWARTZ: Mark Swartz and Les Arrington.

12 BENNY WAMPLER: Let the record show there are no

13 others. You may proceed.

14 MARK SWARTZ: I just want to, again, you know,

15 avert a certain level of confusion. There are amended

16 exhibits on this one. So, there are going to be some

17 dismissals and the percentages are going to change a little

18 bit and we'll get to that. But you should have revised

19 exhibits for BK-110 and if you don't---.

20 BENNY WAMPLER: I've got them right here.

21 MARK SWARTZ: Good.

22 LESLIE K. ARRINGTON

23 DIRECT EXAMINATION

24

1 QUESTIONS BY MR. SWARTZ:

2 Q. Les, you need to state your name again.

3 A. Leslie K. Arrington.

4 MARK SWARTZ: And, Mr. Chairman, I would like to
5 incorporate Les' prior testimony with regard to the
6 applicant, the operator, standard lease terms and his
7 employment, if I could?

8 BENNY WAMPLER: That will be incorporated.

9 Q. Les, with regard to BK-110, what kind of
10 unit is this?

11 A. It's a middle ridge 58.74 acres.

12 Q. And the...how many wells are proposed?

13 A. One.

14 Q. And where is it located?

15 A. It is within the window.

16 Q. Okay. Now, this one, there are some revised
17 exhibits, correct?

18 A. Yes. An Exhibit B-2.

19 Q. Okay. Does that mean we we're...we're going
20 to ask the Board to dismiss some folks?

21 A. Yes. Pauline Hess.

22 Q. Okay. And it's just one person actually?

23 A. Yes.

24

--

1 Q. And what's the reason for that?

2 A. That interest was leased.

3 Q. Okay. And then have you revised Exhibit B-3

4 accordingly?

5 A. Yes, we have.

6 Q. Okay. And have you also revised the

7 percentages with regard to what you've acquired and what you

8 need to pool?

9 A. Yes, we have.

10 Q. Okay. And what...what...would you tell the

11 Board what your standing is in terms of what you've acquired

12 and what it is you need to pool?

13 A. Yes. We have 98.4724% of the coal, oil and

14 gas owner's claim to coalbed methane leased. We're seeking

15 to pool 1.5276% of the coal, oil and gas owner's claim to

16 coalbed methane.

17 Q. Okay. And with regards to the folks

18 that...that were originally listed as respondents on the

19 notice of hearing and in Exhibit B-3, would you tell the

20 Board what you did to notify them of today's hearing?

21 A. Yes. We mailed by certified mail, return

22 receipt May 19, 2006 and published Bluefield Daily Telegraph

23 on May 27, 2006.

24

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1 Q. Okay. Have you filed proofs of publication
2 and mailing with Mr. Wilson?

3 A. Yes, we have.

4 Q. Have you provided the Board with a well cost
5 estimate?

6 A. Yes. \$220,909.10 to a depth of 2516.
7 Permit number is 7210.

8 Q. Now, we've got some escrow requirements
9 here, I think.

10 A. Yes, for Tract 8 and 9.

11 Q. And there's an address issue in 8 and 9 and
12 there is also conflicts?

13 A. Yes.

14 Q. Okay. So for both reasons?

15 A. Yes.

16 Q. Okay. And there's an Exhibit E that points
17 that out?

18 A. Yes, it is.

19 Q. All right. Is it your opinion that drilling
20 a frac well in this Middle Ridge unit in the drilling window
21 is a reasonable way to produce the coalbed methane from this
22 unit?

23 A. Yes, it is.

24

1 Q. And is it your opinion that if you combine a
2 pooling order pooling the folks in the revised Exhibit B-3
3 and...with the leasing efforts that you've been successful in
4 leasing folks that the correlative rights of everyone will be
5 protected?

6 A. Yes, I will...yes, they will.

7 Q. That's all I have Mr. Chairman.

8 BENNY WAMPLER: Questions from members of the
9 Board?

10 (No audible response.)

11 BENNY WAMPLER: Is there a motion?

12 MARY QUILLEN: Motion to approve, Mr. Chairman.

13 PEGGY BARBAR: I'll second.

14 BENNY WAMPLER: Motion and second. Is there any
15 further discussion?

16 (No audible response.)

17 BENNY WAMPLER: All in favor, signify by saying
18 yes.

19 (All members signify by saying yes.)

20 BENNY WAMPLER: Opposed, say no.

21 (No audible response.)

22 BENNY WAMPLER: You have approval. Next is a
23 petition from CNX Gas Company LLC for pooling coalbed methane
24

1 unit BB-49. This is docket number VGOB-06-0620-1650. We'd
2 ask the parties that wish to address the Board in this matter
3 to come forward at this time.

4 MARK SWARTZ: Mark Swartz and Les Arrington.

5 BENNY WAMPLER: Let the record show there are no
6 others. You may proceed.

7 MARK SWARTZ: Mr. Chairman, I'd like to incorporate
8 Mr. Arrington's testimony with regard to the applicant and
9 operator, standard lease terms and his employment.

10 BENNY WAMPLER: That will be incorporated.

11 LESLIE K. ARRINGTON

12 DIRECT EXAMINATION

13 QUESTIONS BY MR. SWARTZ:

14 Q. Les, you need to state your name, again.

15 A. Leslie K. Arrington.

16 Q. And this one we're here because there is a
17 conflicting lease interpretation?

18 A. Yes.

19 Q. So, there's a...there's a legal issue
20 between, I take it, CNX and Penn Virginia or is it somebody
21 else and Penn Virginia?

22 A. It'S CNX and Penn Virginia.

23 Q. Okay. And are you currently in arbitration,
24

1 I guess, at this point?

2 A. Yes, we are.

3 Q. And that arbitration will eventually resolve

4 that kind of issue?

5 A. It should.

6 Q. But in the mean time, we need a pooling

7 order?

8 A. That's correct.

9 Q. Okay. The...that you...what did you do to

10 let Penn Virginia know that there was going to be a hearing

11 today?

12 A. We mailed by certified mail, return receipt

13 May 19, 2006 and published in the Bluefield Daily Telegraph

14 on May 30, 2006.

15 Q. And did you...did you file proofs in that

16 regard both mailing and publication with Mr. Wilson?

17 A. Yes, we have.

18 Q. Okay. This is an Oakwood One unit

19 containing 80 acres proposing one well in the window?

20 A. Yes, it is.

21 Q. Okay. What's your well cost estimate?

22 A. \$252,843.12 to a depth of 2050 feet.

23 Q. You don't have a permit yet?

24

1 A. I don't believe so.

2 Q. Okay. What in...what interests have you
3 acquired and what's in conflict on this lease interpretation
4 issue?

5 A. We have acquired 96.1625% of the coal, oil
6 and gas owner's claim to coalbed methane. And we're seeking
7 to pool 3.8375% of the coal, oil and gas interest.

8 Q. Okay. And, unless there's an election here,
9 there's no escrow requirement?

10 A. That's correct.

11 Q. And if...if they elect to participate, then
12 there will be some escrow?

13 A. And that's cor----.

14 Q. ---but that would be the only reason?

15 A. That's right.

16 Q. And it would be just Penn Virginia in that
17 regard?

18 A. Correct.

19 Q. So, it's kind of a contingent escrow?

20 A. Yeah.

21 Q. If you elect to participate or be carried
22 then...then there would...we would have to deal with that?

23 A. That's right.

24

--

1 BENNY WAMPLER: What the time frame are you looking
2 at for arbitration? Are you in arbitration now or is it
3 going to arbitration?

4 A. No. We're...I would assume that all that
5 discovery type stuff has been done and we're getting ready to
6 get into the arbitration...the actual arbitration.

7 BENNY WAMPLER: Do you have any experience with
8 that as to how long that takes? Are we talking a month or
9 are we talking----?

10 LESLIE K. ARRINGTON: No, sir, I do not.

11 MARK SWARTZ: Nothing ever happens in a month.

12 BENNY WAMPLER: I know that, especially the month
13 of July.

14 MARK SWARTZ: Except maybe here. You know, but in
15 court our arbitration---.

16 (Mr. Arrington confers with Mr. Swartz.)

17 MARK SWARTZ: Les tells me this has been pending
18 for over a year already.

19 BOB WILSON: We have about 50 permits tied up
20 waiting on an arbitration as well.

21 BENNY WAMPLER: Well, I was thinking about the
22 Board order, but---.

23 MARK SWARTZ: I figured. But I wanted to give you
24

1 some feel that it's not going to be tomorrow.

2 BENNY WAMPLER: Go ahead.

3 Q. So, I guess, the escrow...the only
4 observation would be that the escrow, you know, somehow is
5 going to have to be contingent on what they do so that...you
6 know, they'll have to get their option to participate. I
7 mean, that's the argument, right?

8 A. Yes, that's all it is.

9 BENNY WAMPLER: Well, I mean, I'm just open to
10 discussion here.

11 MARK SWARTZ: Right.

12 BENNY WAMPLER: You know, it's kind of unusual for
13 one to come here---.

14 LESLIE K. ARRINGTON: It is.

15 BENNY WAMPLER: ---and, you know, when we...if we
16 do a Board order and it's going to go out and say you've got
17 "X" days to make an election or what have you and you're
18 still in arbitration, you know, do we freeze the time frame
19 for that or what? I guess, that's up to us but...but---.

20 MARK SWARTZ: Well, I don't think we would object
21 to giving them a longer election period. But I think you
22 need...there needs to be a date regardless of what happens,
23 you know.

24

--

1 LESLIE K. ARRINGTON: Yeah, it's not a problem.

2 MARK SWARTZ: You know, it's not a problem. I
3 mean...if you want to give them ninety days or something or
4 six months, I mean, we're not going to object to that but I
5 think your order needs to have closure for them because
6 basically they're going to have to pay 3% of, you know,
7 \$250,000 and then find out if either they're going to get a
8 refund or not. I mean, you know, it would be nice to be done
9 first, but---.

10 BOB WILSON: If they were to elect to participate,
11 you're saying they would have to be escrowed because of the
12 arbitration?

13 MARK SWARTZ: Well, if we start producing this
14 well, you know, we're going to have to participate the
15 work...you're going to have to escrow the working interest
16 that would be associated...you know, the networking interest
17 that would be associated with that. So, I mean, you know,
18 ninety days or something is no problem but---.

19 BOB WILSON: But would that be escrowed under the
20 Board's auspices or internally?

21 MARK SWARTZ: Yeah. Yeah...no, you would have to
22 do it.

23 BENNY WAMPLER: No, we wouldn't have to do it. We
24
--

1 could order you to do it.

2 MARK SWARTZ: Well, yeah. Well, in general, we
3 have not had internal escrows, you know.

4 BENNY WAMPLER: But the purpose of you coming
5 forward now rather than waiting until you can get...get your
6 decision on arbitration is what?

7 MARK SWARTZ: We would like to, you know, get
8 our...get on with our permitting life and, you know, get this
9 well drilled and produce it and this is a way to protect, you
10 know, them and us because the money will be there on the
11 outcome.

12 (Mr. Ratliff confers with Mr. Wampler.)

13 MARK SWARTZ: And then just give them the 30 days
14 after the decision, that would be fine with us too. I mean,
15 that's cool.

16 (Ms. Pigeon confers Mr. Wampler.)

17 MARK SWARTZ: And then if you do that, you don't
18 even have to worry about escrow because it will be dealt
19 with. They will be a participant or not.

20 BENNY WAMPLER: Yeah, that would be the better
21 thing to do, I think.

22 MARK SWARTZ: That's fine. That's cool.

23 BENNY WAMPLER: Were you through?
24
25

1 MARK SWARTZ: Yes.

2 BENNY WAMPLER: Questions---?

3 MARK SWARTZ: I wish I were, but I'm not quite just
4 yet.

5 LESLIE K. ARRINGTON: On this one.

6 MARK SWARTZ: On this one.

7 BENNY WAMPLER: Questions from members of the
8 Board?

9 (No audible response.)

10 BENNY WAMPLER: Is there a motion?

11 DONNIE RATLIFF: I move to approve with the
12 amendment that there be something be put in the Board order
13 that thirty days after the arbitration decision---.

14 BENNY WAMPLER: That they would have to make the
15 election?

16 DONNIE RATLIFF: ---to make the election.

17 MARK SWARTZ: If any?

18 DONALD RATLIFF: If any.

19 BENNY WAMPLER: We have a motion. Is there a
20 second?

21 MARK SWARTZ: Eternal optimist.

22 PEGGY BARBAR: I'll second.

23 BENNY WAMPLER: Motion and second. Any further
24
--

1 discussion?

2 (No audible response.)

3 BENNY WAMPLER: Further discussion?

4 (No audible response.)

5 BENNY WAMPLER: All in favor, signify by saying

6 yes.

7 (All members signify by saying yes.)

8 BENNY WAMPLER: Opposed, say no.

9 (No audible response.)

10 BENNY WAMPLER: You have approval, although we

11 would just stipulate that you are to advise Mr. Wilson when

12 you do have a final arbitration decision with a copy of that

13 decision. The next item on the agenda is a petition from CNX

14 Gas Company, LLC for pooling of coalbed methane unit I-106,

15 docket number VGOB-06-0620-1651. We'd ask the parties that

16 wish to address the Board in this matter to come forward at

17 this time.

18 MARK SWARTZ: Mark Swartz and Les Arrington.

19 BENNY WAMPLER: The record will show no others.

20 You may proceed.

21 MARK SWARTZ: I'd like to incorporate Mr.

22 Arrington's testimony regarding the applicant, operator,

23 standard lease terms and his employment.

24

--

1 BENNY WAMPLER: That will be incorporated.

2

3 LESLIE K. ARRINGTON

4 DIRECT EXAMINATION

5 QUESTIONS BY MR. SWARTZ:

6 Q. Les, you need you to state your name again
7 for us.

8 A. Leslie K. Arrington.

9 Q. Did you prepare or cause to be prepared the
10 notice, the application and related exhibits?

11 A. Yes, I did.

12 Q. You signed both of them?

13 A. Yes.

14 Q. How did you notify Eagle Coal, the sole
15 respondent, that we were going to have a hearing today?

16 A. By certified mail return receipt, May 19,
17 2006. It was published in the Bluefield Daily Telegraph May
18 27, 2006.

19 Q. And have you filed proofs of those
20 publications...publication with Mr. Wilson?

21 A. Yes, we have.

22 Q. Okay. This is a Nora unit?

23 A. Yes.

24

--

1 Q. How many acres?
2 A. 70.04.
3 Q. It is a little bigger than normal, I think.
4 A. It is.
5 Q. Is it on the boundary?
6 A. Yes, it is.
7 Q. And the well is not in the window?
8 A. No.
9 Q. Has the well been drilled?
10 A. Yes.
11 Q. What's your cost estimate?
12 A. \$240,257.97 to a depth of 2,375. Permit
13 number is 6968.
14 Q. Tell the Board what you've been able to
15 acquire by agreement and what you need to pool?
16 A. We have acquired 74.8667% of the coal, oil
17 and gas owner's claim to coalbed methane. We're seeking to
18 pool 25.1333% of the coal, oil and gas owner's claim to
19 coalbed methane.
20 Q. There is no escrow would be required?
21 A. No.
22 Q. Is it your opinion that drilling one frac
23 well in this Nora unit is a reasonable way to produce the
24

1 coalbed methane?

2 A. Yes.

3 Q. And if we...is it your opinion that if you
4 combine the leasing efforts and acquisition efforts that the
5 operator...that the applicant has made with a pooling order
6 that all of the owners and claimants and their correlative
7 rights would, in effect, be protected?

8 A. Yes, they will.

9 MARK SWARTZ: That's all I have.

10 BENNY WAMPLER: What's the notation of Eagle Coal
11 Corporation here on one-third? Is that just what the 13.39
12 represents?

13 LESLIE K. ARRINGTON: Yes. Uh-huh. The one-third
14 interest, yes.

15 BENNY WAMPLER: In each one of those cases?

16 LESLIE K. ARRINGTON: Yes.

17 MARK SWARTZ: It looks like---.

18 BENNY WAMPLER: Questions?

19 MARK SWARTZ: It looks like an undivided, you know,
20 one-third interest that hasn't been leased?

21 LESLIE K. ARRINGTON: That's right.

22 MARK SWARTZ: Just, you know---.

23 BENNY WAMPLER: I was just clarifying that
24

1 that---.

2 MARK SWARTZ: No problem.

3 BENNY WAMPLER: ---number above it represents the
4 one-third of it. It looked like it, but...other questions
5 from members of the Board?

6 (No audible response.)

7 BENNY WAMPLER: Do you have anything further?

8 MARK SWARTZ: No.

9 BENNY WAMPLER: Is there a motion?

10 DONNIE RATLIFF: I move to approve, Mr. Chairman.

11 BENNY WAMPLER: Motion to approve. Is there a
12 second?

13 PEGGY BARBAR: Second.

14 BENNY WAMPLER: Any further discussion?

15 (No audible response.)

16 BENNY WAMPLER: All in favor, signify by saying
17 yes.

18 (All Board members signify by saying yes.)

19 BENNY WAMPLER: Opposed, say no.

20 (No audible response.)

21 BENNY WAMPLER: You have approval. The next item
22 on the agenda is a petition from Donald Ratliff, Ratliff,
23 Anna Pearl Ratliff, Bill Ratliff, Geneva Ratliff, etc. Kyle
24

1 Robinson is here. Docket number VGOB-06-0620-1652. We'd ask
2 the parties that wish to address the Board in this matter to
3 come forward at this time.

4

5

6 PETER GLUBIACK: Good afternoon, Mr. Chairman. I
7 know it has been a long day and in the interest of that, I'll
8 try to be brief. This is a matter of some importance that
9 there have been some investigations about how to go about
10 determining this and after conversations...several
11 conversations with Mr. Wilson, it was determined that at
12 least insofar as the clients that are listed in miscellaneous
13 petition was an appropriate route to take. It is the position
14 of my clients that, and I think that backing up the positions
15 of the statute, that this Board is responsible for an
16 analysis and a setting of reasonable costs to be deducted
17 when computing royalties, particularly for those escrow
18 claimants that are being held in escrow and administered by
19 this Board. As the Board may or may not be aware, and there
20 was a copy of the opinion furnished, there was a Federal case
21 brought some time ago. The result of which was, the cost
22 methods were analyzed by a jury and a Court and determined to
23 be excessive. There are, obviously, reasons for numbers to

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1 be what they are. But the...the basis behind this petition
2 is it is my understanding that, I guess is going all the way
3 back to 1990 and 91, that when the post production cost
4 numbers were fixed they were done based on an estimate
5 provided by at that time, I believe, Mr. Claude Morgan. At
6 that time, there wasn't a number because this was a new
7 process. It is our position that that number has stayed the
8 same. I've checked with Mr. Wilson. There do not appear to
9 be any minutes adopting or changing or modifying or even
10 analyzing that over the course of the past sixteen years.
11 And it is our request that the Board essentially order or
12 require or request CNX to provide a rationale, a basis, a
13 formula, the underlying foundation for what those post
14 production numbers are because it is our opinion that based
15 on the existing case law they are perhaps as much as 100%
16 over what they should be. I think this is an important
17 issue. I have...as I said, I have a number of clients who
18 are listed in the miscellaneous petition. But I think it's
19 fair to say that this certainly affects the...the rights, the
20 royalties and the amounts of money that are paid in for all
21 of those individuals for which the Board is responsible. So,
22 in essence that's what we're asking. I think it has not been
23 done. It's long overdue. I think the numbers, if you read

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1 the opinion, if you read the verdict, you read the other
2 information with regard to the Levisa Coal case, those
3 numbers may not be justifiable. And if that's the case, then
4 we would like to know what is justifiable and at least come
5 up with a rational basis for what the formula should be. And
6 once again, it's my understanding that there...there really
7 has been no analysis of what those numbers are. I know
8 there's continued discussion, when they file a force pooling
9 order they have to tell what the costs are going to be. I
10 think then it behooves this Board to ask them to tell us why
11 it is they can deduct "X" from the numbers that they generate
12 in terms of gros...gross profit when they...when they sell
13 the gas. That's, in essence, what we're asking the Board to
14 do, to enquire into that process, determine how those numbers
15 are...are derived and analyzed and ultimately make a
16 determination, as I think is your responsibility as to
17 whether those numbers are reasonable, because I think that's
18 what the Statute requires. So, that's our request.

19 BENNY WAMPLER: Mr. Swartz?

20 MARK SWARTZ: Just a couple of observations.

21 First, of the petitioners, I think Mr. Whited is a lease,
22 okay. So, his cost situation visa via his operator is...is a
23 contract issue and not a Board issue.

24

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1 PETER GLUBIACK: He is both a lessor and a escrowed
2 claimant.

3 MARK SWARTZ: Is that...that's true, okay. Okay.

4 PETER GLUBIACK: So, he has two halves.

5 MARK SWARTZ: So, in terms of his lease though,
6 he'd be out of the loop. With regard to the rest of the
7 folks on this, we just need to be aware of the fact that
8 substantial sums were paid out to all of these people out of
9 escrow and it would be my position that at that point in time
10 they opted to agree to the number that they received
11 and...otherwise you wouldn't have given it to them. So, if
12 we're talking about these people and money that has been
13 disbursed, my position is that argument is over. If we're
14 talking about people, you know, who have not received
15 disbursements or we're talking about the future, that's an
16 entirely different matter. But my recollection of this
17 Board's handling of disbursements from escrow is to get a
18 commitment from the person receiving the funds that they
19 weren't going to be arguing about the amount down the road
20 because the time to argue about it was right then and there.
21 So, it's clear to me from reading this very brief petition
22 that there's some kind of retroactive component to the
23 request on page two. I would point out to you that my view is

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1 that people who already have their money got it and...and
2 that argument is...is over.

3 The only other two observations I would make, the
4 case in Federal Court was all leases and, I mean, they were
5 different and hey weren't all the same. And that judge and
6 jury struggled with what was the operator entitled to deduct
7 under the terms of their various leases. So, you've got an
8 outcome in that case that was certainly adverse to the
9 operator but it was...it was a lease case. The issue here
10 would be because there was a Board order that really is
11 pretty specific about costs. And...and the Board orders here
12 have provided for a long time and I'm not sure this language
13 has ever changed, that if there is a situation where someone
14 is deemed to have been leased...this is 9.2 option 2, "In
15 lieu of participating and so forth, and thereafter a royalty
16 of one-eighth of eight-eighths, twelve and one-half percent of
17 the net proceeds received by the unit operator for the sell
18 of the gas produced from any well development and operation
19 covered by this order, multiplied by that person's interest
20 within the unit as set forth in B-3. {For purposes of this
21 order net proceeds shall be the actual proceeds received less
22 post production costs incurred downstream of the wellhead
23 including, but not limited to, gathering compression,

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1 treating, transportation and marketing costs whether
2 performed by the unit operator or a third person." And so
3 there's...you know, we've got...that's sort of a guidance
4 that the Board gave, you know, all of the operators. I think
5 it's the same and everything. So, two observations, I don't
6 think this can be...this inquiry can go back to disbursements
7 that have already been made. I think those people made their
8 choices at that time. To the extent that there is an
9 inquiry, the focus needs to be not some case involving
10 leases, but the Board's own order in terms of what's...what's
11 permissible and what you can charge. So, that's where I'm
12 coming from on that.

13 BENNY WAMPLER: Mr. Glubiack.

14 PETER GLUBIACK: Two observations. Number one, I
15 guess I'd like to know what order that was. I'm not aware of
16 it and we looked...I looked for it and asked about it, but
17 don't know what it is. Whatever you---.

18 MARK SWARTZ: Every time a unit is pooled.

19 JIM KAISER: It's in every order.

20 MARK SWARTZ: Every order.

21 PETER GLUBIACK: It's a standing order, okay.

22 BENNY WAMPLER: Yes. Yeah, it's just a standard
23 order.

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1 PETER GLUBIACK: Well, I would point out that,
2 obviously, there is some duty or responsibility, fiduciary
3 obligation on part of the Board. It says, "Net is post
4 production costs." There is some duty to determine what are
5 they and are they up here and off the charts or are they
6 where they...where everybody else is. If...if CNX or anybody
7 else is 100% higher than anybody else or indeed 100% higher
8 than they are in all their leases, then it seems to me the
9 Board has some obligation to determine that the...that the
10 people in escrow, who after all are having their gas taken
11 away and they get twelve and a half percent of their money
12 given back because they're in escrow, there has to be some
13 reasonable basis for those costs and I'm asking that.

14

15 Now, second..my second observation is, a concerted
16 and emphatic objection to Mr. Swartz's assertion that those
17 people took money and agreed. There was no release signed.
18 There was no paperwork. There is no request for it. I will
19 point out the procedure that Mr. Swartz and Mr. Arrington
20 used is to throw a piece of paper down on the table the
21 morning of the hearing and say that's how much money you get.
22 They don't have any idea. We don't know. I asked Ms. Duty
23 under oath one time how do we know it balances. It balances

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1 because they say it balances. There is no..absolutely no
2 agreement that that's the right amount of money. The
3 responsibility was the Board to supervise the funds, if there
4 should have been more money going in because post production
5 costs were grossly inflated, then I'm not in any way, shape
6 or form agreeing that retroactively you can't look at it.
7 You've got to look at it. I think that to argue that they
8 took the money and, therefore, they are barred from any claim
9 that the...that they have been denied the money that may have
10 been there had the cost been reasonable is...is just not
11 right. So, I don't agree with retroactivity and I do assert
12 strongly that there has been no determination of the
13 reasonableness of those costs. It has been a long time,
14 there is a lot of money and there's a lot of gas being
15 produced and I think the Board needs to know, at least, what
16 the basis for these determinations are and that's a start.
17 That's...that's where I think we need to be. The net is
18 after they take their costs out. Well, how do they determine
19 what their costs are? And, I think, it's reasonable for the
20 Board to ask CNX, and for that matter all of the operators
21 that come in here, how do you determine what those production
22 costs are? How do we know what's reasonable? It...it's
23 other people's money is what the Bar Association is always

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1 talking about. And in this case, the escrowed fund is other
2 people's money. And I'm just asking you...and how it's
3 determined how much money is other people's money necessarily
4 involves the issue of what reasonable costs are and what the
5 deductions are. It may turn out that they're...that they're
6 reasonable. I don't know. But, I think, the fact that there
7 has been, to my knowledge, no inquiry into what reasonable
8 costs are begs the question that we need to know. I've got a
9 group of clients who asked me to request that that Board ask
10 that we determine how is that number determined and is there
11 any basis for it to be reasonable. And maybe...maybe there
12 is and maybe there isn't. But I...I can't know and I won't
13 know until somebody asks the question.

14 BENNY WAMPLER: Well, I want to correct you on one
15 thing. This Board has never disbursed that it hadn't had
16 reconciliation with the bank and we've had testimony to that
17 and we've also had you particularly to assert you agreed with
18 the number we were paying out. That's what was in escrow.
19 I'm not trying to deal with whether or not that was what---

20 PETER GLUBIACK: Every penny that's in escrow has
21 been disbursed. There has never been any dispute about that.
22 What I'm saying is how we got the number that's in escrow is
23 what I'm asking to be determined.

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1 BENNY WAMPLER: I understand. I just want to
2 correct that one thing though because we do have testimony---
3 .

4 PETER GLUBIACK: I didn't mean to say that. What
5 was in escrow was disbursed.

6 BENNY WAMPLER: Questions from members of the
7 Board?

8 (No audible response.)

9 BENNY WAMPLER: Mr. Wilson, do you have any
10 comments?

11 BOB WILSON: I would have to say that I have gotten
12 a number of calls from other folks who have been force pooled
13 who have questioned post production costs, not just from CNX,
14 but when they get the accounting the end of the month they
15 have called questioning, number one, why anything is being
16 subtracted and that's explainable; and number two, how those
17 costs are derived. And I, of course, I have no answer for
18 that either. But this is...this is not the first time it has
19 come up. This is first time it has come before the Board as
20 far as I know.

21 MARY QUILLEN: Mr. Chairman, I have a
22 question.

23 BENNY WAMPLER: Ms. Quillen.
24

1 MARY QUILLEN: Well, I guess it's a question, maybe
2 a statement. I have no knowledge of how it's determined. Is
3 there a uniform way of determining of what those post
4 production costs are or is that what he is asking that if
5 there is, what are they? Is it the same for every production
6 company or does it vary from company to company---?
7 BENNY WAMPLER: Mr. Glubiack, do you want to---?
8 MARY QUILLEN: ---or uniformity of---?
9 BENNY WAMPLER: ---comment to that?
10 PETER GLUBIACK: Well, my impression is it varies.
11 And what I'm asking is, that since this is a state fund,
12 shouldn't there be some rationale for how this...after all
13 it's a deduction from money that goes in the fund.
14 MARY QUILLEN: Right.
15 PETER GLUBIACK: If one company does it this way
16 and another company does it that way and one company is here
17 and one company is here, obviously, there are vast
18 differences. And I honestly can't tell you how that's
19 derived. I guess, you know, obviously, CNX will have...and
20 others will have explanations, but I don't know what they
21 are.
22 MARY QUILLEN: You...you just...what we need to
23 know is what formula do they use to determine that post
24

1 production costs?

2 PETER GLUBIACK: Mr. Swartz talked about gathering,
3 transportation, administrative lifting, there are all kinds
4 of post production costs.

5 MARY QUILLEN: Right. Uh-huh.

6 PETER GLUBIACK: They have numbers. They put
7 numbers on their web site. But I don't know how they come up
8 with those numbers.

9 MARY QUILLEN: How they arrived at that number. So,
10 you're---?

11 PETER GLUBIACK: And also, as you've just said, is
12 that number substantially less, substantially more or
13 reasonably equivalent to what other companies are charging.
14 I don't know.

15 BENNY WAMPLER: Mr. Wilson, do you care to espouse
16 a little bit, just for the Board's education, on AFE versus
17 post production costs?

18 BOB WILSON: Yes. I...basically, the AFEs that we
19 get for determining...for people to use to determine whether
20 they wish to participate or do...and the other elections are
21 based entirely on well costs. We heard discussion earlier
22 today whether it includes meters or not. Some costs you'll
23 see come across actually include the flow line that goes to
24

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1 the well to the pipeline. It will include the meters and
2 everything. Some do not. But these are the costs that the
3 operator reasonably expects to incur to get that well on
4 production. It does not include the cost of moving the gas
5 that is produced from that point to West Virginia or wherever
6 they tie in their mainlines and actually sell the gas. This
7 is what's called post production costs. There are pipeline
8 and carrying charges. There are compression charges because,
9 of course, the gas has to be...we all refer to it as being
10 pumped, which is in essence what is being done. It's
11 compressed in order to move it down this line and get it into
12 yet a bigger line. And, of course, all of these things cost
13 money and I don't think anybody has questioned the fact that
14 that's case. It's pretty standard to charge those
15 productions...those costs for any gas that you carry that is
16 not your own basically. And, I think, that the question that
17 is being asked today is, what is appropriate to charge folks
18 who have been forced into these units without signing a
19 lease? The lease terms done correctly would cover the terms
20 of leased individuals and, of course, there is no argument
21 with that I don't think. But the fact that there are, of
22 course, many, many people who have been forced into these
23 units who are also being charged and whether there is some

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1 obligation to look after those costs.

2 MARY QUILLEN: And these...these post production
3 costs would probably vary from well to well depending on a
4 number of environmental factors, location and that sort of
5 thing, is that---?

6 BOB WILSON: I believe, they're generally charged
7 per mcf. I think that is correct by all operators.

8 MARY QUILLEN: Okay.

9 BOB WILSON: So, that's a fixed cost per thousand
10 cubic feet of gas moved.

11 BENNY WAMPLER: Okay. Other questions or comments?
12 (No audible response.)

13 BENNY WAMPLER: Do you know off the top of your
14 head what you charge per mcf?

15 LESLIE K. ARRINGTON: No, sir.

16 BENNY WAMPLER: Are you asking for more than the
17 cost per mcf or are you asking...if that's the way they
18 charge, are you asking--?

19 PETER GLUBIACK: Well, to be...I'm trying not to be
20 over simplistic or flip, I'm asking for as much information
21 as we can possibly get. I mean, I think that my point is, as
22 it has been stated, these people were force pooled,
23 deductions were made and what I'm you asking is that the

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1 Board in this case this miscellaneous petition was CNX
2 because these clients dealt with CNX. But, obviously, it
3 applies across the Board. How a determination is made? Mr.
4 Arrington has just stated that he doesn't know. Well, I'd
5 liked to know what the number is and then what goes into the
6 number. I believe, it's somewhere about \$1.50 to \$1.56 per
7 thousand for mcf. I know that the numbers in other cases for
8 lessees is dramatically less, sometimes half that. Now, why
9 they can charge \$1.50 if it is per mcf to the force pooled
10 claimants and .70 mcf to the Levisa Coal claimants, that's a
11 question I think this Board might want to know. Now, I may
12 be wrong, but certainly you need the information to know and
13 it is my belief, based on what I've been told that the
14 number...the post production cost deduction for the escrow
15 claimants is over twice what it is for many lessees. Now,
16 there may be rationale for that, but the fact is that the
17 force pooled claimants have no voice except you, the Board
18 members. So, I'm asking you to ask.

19 BENNY WAMPLER: Other questions from members of the
20 Board?

21 (Benny Wampler confers with Sharon Pigeon)

22 BENNY WAMPLER: Are you asking for also for
23 information on leased individuals as well as force pooled?

24

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1 PETER GLUBIACK: No. Because I don't believe
2 that's the purview of the Board. The Board is charged with
3 administering the escrowed claimants and that's really what
4 we're asking for. The less...and I agree with Mr. Swartz,
5 the lessees are whatever you negotiate in a lease.
6 That...that's their situation. There is no lease for escrow
7 claimants and they have no voice.

8 SHARON PIGEON: So, are you going to try and make a
9 comparison between leased and non-leased?

10 PETER GLUBIACK: I'd like to know what the charge
11 for post production costs are for the escrowed claimants and
12 why it's that number. I mean, I can find out and I...I
13 intend to find out and I have some information as to what
14 they're charging lessees and it is my understanding is that
15 varies from company to company, but somewhere between .30 mcf
16 and about .70 mcf.

17 MARY QUILLEN: And what is it for the---?

18 PETER GLUBIACK: I believe it to be \$1.56.
19 I...that's what I've been able to determine. But I
20 can't...I mean, I'm not going to tell you. I think it's
21 substantially higher than what it is. So, I've asked.

22 BENNY WAMPLER: Okay. We've got before us a
23 petition to make the request. It's certainly within the

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1 Board's jurisdiction to request that information because it
2 does have to go...it goes to the question of whether or not
3 the amount of money that went into escrow was all the money
4 that should have gone into escrow, I guess, is a simplistic
5 way to put that.

6 MARY QUILLEN: And should we also ask if...why
7 there is a difference between the amount for people who are
8 leased and the people that are in escrow?

9 BENNY WAMPLER: That would go---.

10 SHARON PIGEON: We don't have any juris-
11 diction---.

12 MARY QUILLEN: We don't have any jurisdiction over
13 that?

14 BENNY WAMPLER: No.

15 SHARON PIGEON: No.

16 MARY QUILLEN: Okay.

17 BENNY WAMPLER: No. That's private contractual
18 notice.

19 MARY QUILLEN: Okay.

20 BENNY WAMPLER: I was just getting it clarified for
21 the record earlier and Mr. Glubiack readily said, he's not
22 asking for that.

23 MARY QUILLEN: Okay.

24 BENNY WAMPLER: Is there a motion?

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1 (No audible response.)

2 BENNY WAMPLER: I'm not trying to cut you off from

3 other questions. If there are other questions or comments---

4 ?

5 MARY QUILLEN: No, no. That clarifies it. I

6 understand it.

7 (Mr. Wampler confers with Ms. Pigeon.)

8 BENNY WAMPLER: Is there a clarification on time

9 frame? You just said retroactive and prospective.

10 PETER GLUBIACK: I think that's an issue for a

11 fight for another day. That's fine. I don't have any...I

12 don't have any concern of what...what I want to

13 know...that's---.

14 BENNY WAMPLER: It would be from the time...for the

15 people that you represent here, from the time that they

16 start...that well started producing.

17 PETER GLUBIACK: Yes.

18 BENNY WAMPLER: I would...I would---.

19 PETER GLUBIACK: I'd like to know what the basis

20 for the post production costs...maybe the numbers varied over

21 time, I don't know. But my understanding is, from the best

22 information I have is, it was set informally when this Board

23 started, based on sort of best guess estimates. I believe,

24 there is deposition testimony of Mr. Claude Morgan in the

1 Levisa case that he brought somebody in and they sort of said
2 this is what we think it's going to be and that's what it has
3 been, and to my knowledge...I've asked and I think Mr.
4 Wilson's looked, and I don't know that anybody's fooled with
5 or even found out what that number is. I'm asking---.

6 BENNY WAMPLER: It has not been before the Board, I
7 can tell you that.

8 PETER GLUBIACK: So, maybe the best place to start
9 or at the least controversial place to start is to ask what
10 that number is and what the justification for it is, and if
11 my clients want to proceed or if I want to come back to the
12 Board that's fine. But I'm...I'm asking the Board to do what
13 I think is, as you stated, very reasonable. Find out what
14 that number is and what the basis for it is and if there is a
15 difference, then I may come back and try to illustrate what
16 the difference is.

17 BENNY WAMPLER: So, the motion would be to grant or
18 deny the petition, Board members. So, is there a motion?

19 MARY QUILLEN: Motion to approve, Mr. Chairman.

20 PEGGY BARBAR: I'll second.

21 DONNIE RATLIFF: Can we alter paragraph the
22 petition? Can we strike paragraph five?

23 BENNY WAMPLER: There is a motion and a second to
24 approve it. Questions...and I've got a question, can we

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1 alter paragraph five. I just put mine away. What is
2 suggested is the change to that?

3 DONNIE RATLIFF: What I'm trying to do is to see if
4 what we're doing is right. I think that's described in two.

5 BENNY WAMPLER: Are you going to specifically about
6 the retroactivity of it? Well, I think he said that he would
7 be satisfied with knowing what the number is and the rational
8 behind it to start.

9 PETER GLUBIACK: I'd like to start somewhere and
10 the somewhere to start is and if you think we have a basis
11 for going back retroactively we'll do that. I can't even
12 begin a discussion until we know what the number is and what
13 the basis for the number is.

14 BENNY WAMPLER: So, take out retroactively. Is
15 that agreeable to the motion and a second?

16 MARY QUILLEN: Yes, that's agreeable.

17 BENNY WAMPLER: Okay. All right. Is that
18 agreeable to you?

19 (No audible response.)

20 BENNY WAMPLER: Okay. I have a motion and a second
21 and agreement to strike retroactively. All in favor, signify
22 by saying yes.

23 (All Board members signify by saying yes.)

24 BENNY WAMPLER: Opposed, say no.

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1 DONNIE RATLIFF: No.

2 BENNY WAMPLER: We have one no. It is approved.

3 There is...you are directed to follow the petition. The

4 retroactively is stricken from that.

5 PETER GLUBIACK: Mr. Chairman, since we're here,

6 and I guess I was interested in getting it passed and

7 neglected to ask, do we want to...I mean, are going to...Mr.

8 Swartz and Mr. Arrington can't tell us the day they are

9 going to answer. But are they going to report back to you

10 when they can answer?

11 MARK SWARTZ: Well, I've talked about it, you know,

12 because...although, I don't have a crystal ball, you know, I

13 can sometimes kind of predict where we're going to be headed.

14 So, I asked Claude...between Claude Morgan...Claude Morgan

15 is the fellow that's going to have to deal with this. And I

16 talked to Claude and between Claude's schedule and my trial

17 schedule this summer, we agreed that we could report back by

18 the August hearing, but we really needed to take a pass on

19 July because we're just so---.

20 PETER GLUBIACK: I'd prefer if you'd report back at

21 the September meeting if the board is okay with that.

22 MARK SWARTZ: I mean, we need more than thirty days

23 is what I'm saying. We felt like we could do that.

24 SHARON PIGEON: He's given you an extra thirty

1 days.

2 BENNY WAMPLER: He's agreeing to September.

3 MARK SWARTZ: September is fine...you know,
4 September is fine. But, you know, we can't do it in thirty
5 days.

6 BENNY WAMPLER: Okay. We'll go...we'll go with
7 September. We'll ask you to report back at the September
8 Board meeting.

9 MARK SWARTZ: Now to be clear, just so I understand
10 because I know you granted the motion, but you want to know
11 the formula and you want to know what the components of the
12 formula are currently. I mean, that's what you are
13 interested in?

14 PETER GLUBIACK: I want to know what the number is.

15 MARK SWARTZ: Well, yeah---.

16 PETER GLUBIACK: If it's a standard number.

17 MARK SWARTZ: The number, the formula and then the
18 components of the formula. I mean, how do you...I mean, if
19 you're adding up these amounts, what are the individual
20 components? That's what you're asking?

21 PETER GLUBIACK: Yes.

22 MARK SWARTZ: Okay. I understand.

23 LESLIE K. ARRINGTON: Okay.

24 BENNY WAMPLER: Okay.

1 DONNIE RATLIFF: But they won't all be the same
2 will they? You've got different transportation---?

3 MARK SWARTZ: Well, you know, in the...in the...and
4 I'm just speaking from years and years ago, but most, and
5 I've represented a bunch of oil and gas people that do this,
6 you generally collectively aggregate your costs and then
7 divide them by your (inaudible). So, you know, there can be a
8 difference from year to year based on (inaudible), there can
9 be a cost difference. But you're looking for an average that
10 you can apply to a decatherm or a 1000 cubic foot of gas.
11 So, you know, there's going to be some variation, but there's
12 also going to be...it's the same charge.

13 PETER GLUBIACK: Thank you.

14 BENNY WAMPLER: We're going to take a five minute
15 break.

16 (Break.)

17 BENNY WAMPLER: Docket numbers VGOB-06-0620-1660
18 and VGOB-06-0620-1662 are continued until next month. The
19 next item on the agenda is a petition for Equitable
20 Production Company for pooling of coalbed methane unit VC-
21 551315, docket number VGOB-06-0620-1653. We'd ask the
22 parties that wish to address the Board come forward at this
23 time.

24 JIM KAISER: Mr. Chairman and Board members, Jim

--

1 Kaiser and George Heflin on behalf of Equitable Production
2 Company. And Don Hall is not here this month. I know he has
3 got a lot of friends in here, he's in the hospital in
4 Kingsport. He's having some digestive tract problems and
5 there is probably going to be surgery, so you might not even
6 see him next month.

7 PEGGY BARBAR: Which hospital did you say, Jim?

8 JIM KAISER: Holston Valley in Kingsport.

9 (George Heflin is duly sworn.)

10 BENNY WAMPLER: Let the record show there are no
11 others. You may proceed.

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1 GEORGE HEFLIN

2 having been duly sworn, was examined and testified as
3 follows:

4 DIRECT EXAMINATION

5 QUESTIONS BY MR. KAISER:

6 Q. Mr. Heflin, I know you have testified before
7 the Board before on several occasions and also before Mr.
8 Wilson on some informal fact-finding conferences. But could
9 you state your name for the Board, who you're employed by and
10 in what capacity?

11 A. George B. Heflin. I'm employed by Equitable
12 Production Company with responsibilities in Big Stone Gap,
13 Virginia. I'm regional land manager.

14 Q. And do your responsibilities include the
15 land involved in this unit and in the surrounding area?

16 A. That's correct.

17 Q. And are you familiar with the application we
18 filed seeking a pooling order for well number VC-551315 dated
19 May 19, 2006?

20 A. Yes, I am.

21 Q. And does Equitable own the drilling rights
22 in the unit involved here?

23 A. We do.

24 Q. And prior to filing the application, were

--

1 efforts made to contact each of the respondents and an
2 attempt made to work out a voluntary lease agreement?

3 A. There were.

4 Q. What's the interest under lease to Equitable
5 in the gas estate within the unit?

6 A. 89.385795%.

7 Q. And the interest under lease to Equitable in
8 the coal estate within the unit?

9 A. 100%.

10 Q. And are all unleased parties are set out at
11 Exhibit B-3?

12 A. That's correct.

13 Q. And so that would mean that the unleased
14 portion of the gas estate is 10.614205?

15 A. That's true.

16 Q. Okay. And we do have, at least one, that I
17 noted real quick...I think just one maybe unknown interest
18 owner?

19 A. That's correct.

20 Q. That's a Wiley Joe Canner?

21 A. Correct.

22 Q. And were efforts made to and sources checked
23 to identify and locate him including primary sources such as
24 deed records, probate records, assessors records, treasurer's

1 records, and secondary sources such as telephone directories,
2 city directories, family and friends?

3 A. We do.

4 Q. In your professional opinion, was due
5 diligence exercised to locate each respondent named in
6 Exhibit B?

7 A. Yes.

8 Q. And are the addresses set out in Exhibit B
9 to the application, the last known addresses of the
10 respondents?

11 A. Yes.

12 Q. Are you requesting this Board to force pool
13 all unleased interest listed in Exhibit B3?

14 A. We are.

15 Q. Are you familiar with the fair market value
16 of the drilling rights in the unit here and in the
17 surrounding area?

18 A. I am.

19 Q. Could you advise the Board as to what those
20 are?

21 A. Yes. We pay three dollars per acre with a
22 two dollar per acre signing bonus for five dollar per acre
23 the first year for a five year term and a one-eighth royalty.

24 Q. In your opinion, do the terms you've just

--

1 testified to represent fair market value of and the fair and
2 reasonable compensation to be paid for drilling rights within
3 this unit?

4 A. It does.

5 Q. Now, as to the owners with...within the unit
6 who remain unleased, do you agree that they be allowed the
7 following statutory election options with respect to their
8 ownership interest: 1) Participation; 2) a cash bonus of
9 five dollars per net mineral acre plus a one-eighth of eight-
10 eighths royalty; or 3) in lieu of a cash bonus and one-eighth
11 of eight-eighths royalty share in the operation of the well on
12 a carried basis as a carried operator under the following
13 conditions: Such carried operator shall be entitled to the
14 share of production from the tracts pooled accruing to his
15 interest exclusive of any royalty or overriding royalty
16 reserved in any leases, assignments thereof or agreements
17 relating thereto of such tracts, but only after the proceeds
18 applicable to his or her share equal, A) 300% of the share of
19 such costs applicable to the interest of the carried operator
20 of a leased tract or portion thereof; or B) 200% of the share
21 of such costs applicable to the interest of a carried
22 operator of an unleased tract or portion thereof?

23 A. Yes.

24 Q. Do you recommend that the order provide that

--

1 all elections by the respondents be in writing and sent to
2 the applicant at Equitable Production Company, 1710
3 Pennsylvania Avenue, P. O. Box 2347, Charleston, West
4 Virginia 25328, Attention: Leslie Smith, Regulatory?

5 A. Correct.

6 Q. Do you recommend that the order provide that
7 if no written election is properly made, then that respondent
8 be deemed to have elected the cash royalty option in lieu of
9 participation?

10 A. Yes.

11 Q. Should unleased respondents be given 30 days
12 from the date of the Board order...the date that they
13 received the Board to file their written elections?

14 A. Yes.

15 Q. If an unleased respondent elects to
16 participate, should they be given forty-five days to pay
17 their proportionate share of well costs?

18 A. That's correct.

19 Q. Does the applicant expect any party electing
20 to participate to pay in advance that party's share of actual
21 completed well costs?

22 A. Yes.

23 Q. Should the applicant be allowed a hundred
24 and twenty days following the recordation date of the Board

--

1 order and thereafter annually on that date until production
2 is achieved, to pay or tender any cash bonus or delay rental
3 becoming due under any order?

4 A. Yes.

5 Q. Do you recommend that the order provide that
6 if a respondent elects to participate but fails to pay their
7 proportionate share of well costs, then their election to
8 participate should be treated as having been withdrawn and
9 void?

10 A. That's.

11 Q. Do you recommend that the order provide that
12 where a respondent elects to participate but defaults in
13 regard to the payment of well costs, any cash sum becoming
14 due that respondent be paid within sixty days after the last
15 date on which they could have paid those costs?

16 A. That's true.

17 Q. And in this particular case, we have both
18 conflicting claims to coalbed methane and unknown owners.
19 So, the Board does need to create an escrow account, is that
20 correct?

21 A. Yes.

22 Q. And, I believe, it's only for Tract 3, is
23 that correct?

24 A. I believe so.

--

1 Q. Okay. And what's the total depth of the
2 proposed well under our applicant's plan and development?
3 A. 2,057 feet.
4 Q. Estimated reserves for the unit?
5 A. 150 million cubic feet.
6 Q. Now, are you familiar with the well costs
7 for this well?
8 A. I am.
9 Q. Has an AFE been reviewed, signed and
10 submitted to the Board?
11 A. Yes, it has.
12 Q. Was it prepared by an engineering department
13 knowledgeable in the preparation of AFEs and knowledgeable in
14 regard to well costs in this area?
15 A. Yes, it was.
16 Q. In your opinion, does it represent a
17 reasonable estimate of well costs?
18 A. Yes.
19 Q. Could you state for the Board what the dry
20 hole costs and completed costs for this well?
21 A. Dry hole costs would be \$132,932 and the
22 completed well costs would be \$311,491.
23 Q. Do these costs anticipate a multiple
24 completion?

1 A. Yes.

2 Q. Does your AFE include a reasonable charge
3 for supervision?

4 A. It does.

5 Q. In your professional opinion, would the
6 granting of this application be in the best interest of
7 conservation---?

8 A. It would.

9 Q. ---prevention of waste and protection of
10 correlative rights?

11 A. It would.

12 JIM KAISER: Nothing further of this witness at
13 this time, Mr. Chairman.

14 BENNY WAMPLER: Your proposed location is outside
15 the drilling window. What is the reason for that?

16 GEORGE HEFLIN: I believe, it has probably...on
17 this one it's either topography or a coal spot. I need to
18 look at it.

19 BENNY WAMPLER: Okay.

20 BOB WILSON: Mr. Chairman, if I can remember this
21 one correctly, I believe there are mining plans on the other
22 side of that Route 601 there that caused that to be moved.

23 BENNY WAMPLER: We didn't have it in ours. We
24 looked. We borrowed Mr. Wilson's.

1 MARY QUILLEN: Oh, okay.

2 GEORGE HEFLIN: That's correct. That's where it
3 is. It's in Caine Creek and that's where the mining---.

4 BENNY WAMPLER: What was the reason?

5 JIM KAISER: Coal---.

6 GEORGE HEFLIN: It's a coal spot. To help them
7 with their mining. I'll apologize that I didn't have it in
8 front of me.

9 BENNY WAMPLER: Anything further?

10 JIM KAISER: Mr. Chairman, we'd ask that the
11 application be approved as submitted.

12 BENNY WAMPLER: Questions from members of the
13 Board?

14 (No audible response.)

15 BENNY WAMPLER: Is there a motion?

16 PEGGY BARBAR: Motion to approve.

17 MARY QUILLEN: Second.

18 BENNY WAMPLER: Motion and second. Is there any
19 further discussion?

20 (No audible response.)

21 BENNY WAMPLER: All in favor, signify by saying
22 yes.

23 (All Board members signify by saying yes, but
24 Donnie Ratliff.)

1 BENNY WAMPLER: Opposed, say no.

2 DONNIE RATLIFF: I'll abstain, Mr. Chairman.

3 BENNY WAMPLER: One abstention, Mr. Ratliff. You
4 have approval. The next item on the agenda is a petition from
5 Equitable Production Company pooling of coalbed methane unit
6 VC-535916. This is docket number VGOB-06-0602-1654. I'd ask
7 the parties that wish to address the Board in this matter to
8 come forward at this time.

9 JIM KAISER: Mr. Chairman, again Jim Kaiser and
10 George Heflin on behalf of Equitable Production Company.

11 BENNY WAMPLER: Let the record show there are no
12 others. You may proceed.

13

14 GEORGE HEFLIN

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. KAISER:

17 Q. Mr. Heflin, are you familiar with the land
18 in the unit here and in the surrounding area?

19 A. I am.

20 Q. Are you familiar the application we filed
21 seeking a pooling order for this well?

22 A. Yes.

23 Q. Does Equitable own drilling rights in the
24 unit involved here?

--

1 A. We do.

2 Q. Could you state the interest under lease to
3 Equitable in the gas estate in the unit?

4 A. 59.35%.

5 Q. And the coal estate?

6 A. 100%.

7 Q. Are all unleased parties set out in Exhibit
8 B3?

9 A. They are.

10 Q. So, the interest in the gas estate that
11 remains unleased is 40.65%, which is certainly high for
12 Equitable. But it is because it is the gas estate in Tract
13 1, which is owned by the unknown Joseph Kiser, Jr. Heirs, is
14 that correct?

15 A. That's correct.

16 Q. Okay. And you did make reasonable and
17 diligent efforts to attempt to find any Joseph Kiser, Jr.
18 Heirs?

19 A. We have.

20 Q. Okay. In your professional opinion, was due
21 diligence exercised to locate each of the respondents named
22 herein?

23 A. Yes.

24 Q. And are addresses set out in Exhibit B to

1 the application the last known addresses for the respondents?

2 A. Yes.

3 Q. And are you requesting this Board to force
4 pool all unleased interests listed at Exhibit B-3?

5 A. That's correct.

6 Q. Again, are you familiar with the fair market
7 value of drilling units here and in the surrounding area?

8 A. I am.

9 Q. Advise the Board to what those are.

10 A. A five dollar bonus, a five year term and
11 one-eighth royalty.

12 Q. In your opinion, do the terms you just
13 testified to represent fair market value of and fair and
14 reasonable compensation be paid for drilling rights within
15 this unit?

16 A. That's correct.

17 JIM KAISER: At this time, Mr. Chairman, I'd like
18 to incorporate the testimony regarding the election options
19 and time periods in which to make them and the implications
20 of such taken previously in 06-0620-1653.

21 BENNY WAMPLER: That will be incorporated.

22 Q. Now, Mr. Heflin, we do need to establish an
23 escrow account in this case for Tract 1, is that correct?

24 A. That's correct.

--

1 Q. Okay. And what is the total depth of this
2 well?

3 A. 2,472 feet.

4 Q. Estimated reserves for the unit?

5 A. 225 million.

6 Q. Has an AFE been reviewed, signed and
7 submitted to the Board?

8 A. It has.

9 Q. In your opinion, does it represent a
10 reasonable estimate of the well costs?

11 A. It does.

12 Q. Would you state for the Board the dry hole
13 cost and completed cost for this well?

14 A. \$139,131 is the dry hole costs and the
15 completion costs or complete the cost of the well is
16 \$313,831.

17 Q. Do these costs include a multiple
18 completion?

19 A. They do.

20 Q. Does your AFE include a reasonable cost for
21 supervision?

22 A. It does.

23 Q. In your professional opinion, would the
24 granting of this application be in the best interest of

1 conservation, prevention of waste and protection of
2 correlative rights?

3 A. Yes.

4 JIM KAISER: Nothing further of this witness at
5 this time, Mr. Chairman.

6 BENNY WAMPLER: Would you restate the dry hole
7 cost, please?

8 GEORGE HEFLIN: The dry hole costs are \$139,131.

9 BENNY WAMPLER: Ours has 141.

10 MARY QUILLEN: 141 on here.

11 JIM KAISER: That's a typo.

12 GEORGE HEFLIN: That's a typo.

13 JIM KAISER: It should be 139,131.

14 GEORGE HEFLIN: I need to look at the AFE.

15 BENNY WAMPLER: That's all right. I was just double
16 checking.

17 GEORGE HEFLIN: I'm sorry.

18 BENNY WAMPLER: So, it is 141?

19 JIM KAISER: 141.

20 BENNY WAMPLER: Okay. One other question that I
21 have is, what tracts are you drilling the well on? Is it on
22 one where you have the unknown and unlocateable?

23 GEORGE HEFLIN: It's actually is---.

24 BENNY WAMPLER: I couldn't tell.

--

1 GEORGE HEFLIN: It is. It's on Tract 1.
2 MARY QUILLEN: Tract 1.
3 BENNY WAMPLER: Uh-huh. Who's the surface owner
4 there?
5 GEORGE HEFLIN: The surface owner on that is Marlin
6 Colley and we have an agreement with him for the surface. Of
7 course, the CBM claimant owner is Pine Mountain.
8 BENNY WAMPLER: Questions from members of the
9 Board?
10 (No audible response.)
11 BENNY WAMPLER: Do you have anything further?
12 JIM KAISER: Mr. Chairman, we'd ask that the
13 application be approved as submitted.
14 BENNY WAMPLER: Is there a motion?
15 PEGGY BARBAR: Motion to approve.
16 MARY QUILLEN: Second.
17 BENNY WAMPLER: Motion and second. Any further
18 discussion?
19 (No audible response.)
20 BENNY WAMPLER: All in favor, signify by saying
21 yes.
22 (All Board members signify by saying yes, but
23 Donnie Ratliff.)
24 BENNY WAMPLER: Opposed, say no.

1 DONNIE RATLIFF: I'll abstain.

2 BENNY WAMPLER: One abstention, Mr. Ratliff. You
3 have approval. The next item on the agenda is a petition
4 from Equitable Production Company for pooling of conventional
5 gas unit V-503180. This is docket number VGOB-06-0602-1655.
6 We'd ask the parties that wish to address the Board in this
7 matter to come forward at this time.

8 JIM KAISER: Mr. Chairman, again, Jim Kaiser and
9 George Heflin on behalf of Equitable.

10 BENNY WAMPLER: Let the record show there are no
11 others. You may proceed.

12

13 GEORGE HEFLIN

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. KAISER:

16 Q. Now, Mr. Heflin, again, do your
17 responsibilities include the land involved here and in the
18 surrounding area?

19 A. They do.

20 Q. Does Equitable own the drilling rights in
21 the unit here?

22 A. Yes.

23 Q. And what is the interest under lease to
24 Equitable in the gas estate?

--

1 A. 86.91%.

2 Q. Are all unleased parties set out in Exhibit

3 B-3?

4 A. They are.

5 Q. So, the unleased interest in the unit is

6 13.09%?

7 A. That's correct.

8 Q. Okay. And we do have a small interest in

9 Tract 4 and it's the Yellow Poplar Lumber Company?

10 A. Correct.

11 Q. And everybody's heard the testimony about

12 them a million times. So, I'm not going to go through that.

13 Are you requesting this Board to force pool all unleased

14 interests listed in Exhibit B-3?

15 A. We are.

16 Q. Could you advise the Board as to what

17 the...what you're paying as far as fair market value of

18 drilling rights?

19 A. A five dollar bonus, five year term and one-

20 eighth royalty.

21 Q. In your opinion, do the terms you just

22 testified to represent a fair market value of and fair and

23 reasonable compensation to be paid for drilling rights within

24 this unit?

1 A. It does.

2 JIM KAISER: Mr. Chairman, again, I'd like to
3 incorporate the previous testimony regarding the election
4 options.

5 BENNY WAMPLER: That will be incorporated.

6 Q. We do need to set up an escrow account in
7 this case for Tract 4, correct--?

8 A. Correct.

9 Q. ---as shown on Exhibit E for the Yellow
10 Poplar interests? And what is the total depth of the
11 proposed well?

12 A. 4,528 feet.

13 Q. Estimated reserves for the unit?

14 A. 300 million.

15 Q. And has an AFE been reviewed, signed and
16 submitted to the Board as Exhibit C to the application?

17 A. It has.

18 Q. In your opinion, does it represent a
19 reasonable estimate of the well costs?

20 A. It does.

21 Q. Could you state for the Board the dry hole
22 costs and completed well costs for this well?

23 A. Dry hole costs are \$257,628. The completed
24 costs are \$528,832.

1 Q. Does these cost anticipate a multiple
2 completion?
3 A. They do.
4 Q. And does the AFE include a reasonable charge
5 for supervision?
6 A. It does.
7 Q. In your professional opinion, would the
8 granting of this application be in the best interest for
9 conservation, the prevention of waste and the protection of
10 correlative rights?
11 A. That's correct.
12 JIM KAISER: Nothing further of this witness at
13 this time, Mr. Chairman.
14 BENNY WAMPLER: Questions from members of the
15 Board?
16 MARY QUILLEN: Mr. Chairman, I have just---.
17 BENNY WAMPLER: Ms. Quillen.
18 MARY QUILLEN: ---one question. Could you repeat
19 the depth? Was it 4,528 or 20?
20 GEORGE HEFLIN: It was 4,528.
21 MARY QUILLEN: 528, okay. Thank you.
22 BENNY WAMPLER: Other questions?
23 (No audible response.)
24 BENNY WAMPLER: Do you have anything further?

1 JIM KAISER: We'd ask that the application be
2 approved as submitted, Mr. Chairman.

3 BENNY WAMPLER: Is there a motion?

4 MARY QUILLEN: Motion to approve.

5 PEGGY BARBAR: I'll second.

6 BENNY WAMPLER: Motion and second. Any further
7 discussion?

8 (No audible response.)

9 BENNY WAMPLER: All in favor, signify by saying
10 yes.

11 (All Board members signify by saying yes, but
12 Donnie Ratliff.)

13 BENNY WAMPLER: Opposed, say no.

14 (No audible response.)

15 BENNY WAMPLER: You have approval.

16 DONNIE RATLIFF: I'll abstain.

17 BENNY WAMPLER: One abstention, Mr. Ratliff. The
18 next item on the agenda is a petition from Equitable
19 Production Company for pooling of coalbed methane unit VC-
20 536598, docket number VGOB-06-02...0620-1656. We'd ask the
21 parties that wish to address the Board in this matter to come
22 forward at this time.

23 JIM KAISER: Again, Jim Kaiser and George Heflin on
24 behalf of Equitable Production Company.

1

2

GEORGE HEFLIN

3

DIRECT EXAMINATION

4 QUESTIONS BY MR. KAISER:

5

Q. Mr. Heflin, you're familiar with our

6

application seeking a pooling order for this well?

7

A. I am.

8

Q. Does Equitable own the drilling rights in

9

the unit involved here?

10

A. We do.

11

Q. And the interest Equitable owns under lease

12

within the gas estate?

13

A. 99 and a half%.

14

Q. And the interest under lease to Equitable in

15

the coal estate?

16

A. 100%.

17

Q. So the interest in the gas estate that

18

remains unleased is .50%?

19

A. That's correct.

20

Q. And that's represented in Tract 5?

21

A. True.

22

Q. And it's primarily the unknown M. D. Rasnake

23

heirs?

24

A. That's correct.

--

1 Q. Okay. And were reasonable and diligent
2 efforts made and sources checked in an attempt to identify
3 these unknown heirs?

4 A. They were.

5 Q. Okay. In your professional opinion, was due
6 diligence exercised to locate each of the respondents named
7 herein?

8 A. Yes.

9 Q. And are addresses set out in Exhibit B of
10 the application the last known addresses of the respondents?

11 A. They were.

12 Q. Are you requesting this Board to force pool
13 all unleased interest listed at Exhibit B-3?

14 A. Yes.

15 Q. Again, what is the fair market value of the
16 drilling rights in the unit here?

17 A. We pay a five dollar bonus, a five year term
18 and one-eighth royalty.

19 Q. And, in your opinion, do the terms you just
20 testified to represent fair market value of and fair and
21 reasonable compensation to be paid for drilling rights within
22 this unit?

23 A. That is correct.

24 JIM KAISER: Again, Mr. Chairman, I would like to

--

1 incorporate the testimony regarding the election options
2 afforded the unleased parties.

3 BENNY WAMPLER: That will be incorporated.

4 Q. And in this particular case, we do need to
5 set up an escrow account covering Tract 5, is that correct?

6 A. That's correct.

7 Q. Okay. And who should be named operator
8 under the force pooling order?

9 A. Yes.

10 Q. Who should be named the operator?

11 A. We should be.

12 Q. Who should be, Equitable Production Company?

13 A. Equitable Production Company should be named
14 operator.

15 Q. What's the total depth of the proposed well?

16 A. 2,362 feet.

17 Q. Estimated reserves for the unit?

18 A. 330 million.

19 Q. Has an AFE been reviewed, signed and
20 submitted to the Board as Exhibit C?

21 A. It has.

22 Q. Does it represent a reasonable of the well
23 cost, in your opinion?

24 A. Yes.

--

1 Q. Can you state for the Board the dry hole
2 costs and completed hole costs for this well?

3 A. Dry hole costs are \$138,591 and the
4 completed well cost are \$339,843.

5 Q. Do these cost anticipate a multiple
6 completion?

7 A. They do.

8 Q. Does the AFE include a reasonable charge for
9 supervision?

10 A. It does.

11 Q. In your professional opinion, would the
12 granting of this application be in the best interest of
13 conservation, the prevention of waste and the protection of
14 correlative rights?

15 A. It does.

16 JIM KAISER: Nothing further of this witness at
17 this time, Mr. Chairman.

18 BENNY WAMPLER: Questions from members of the
19 Board?

20 MARY QUILLEN: I'm sorry to have to ask you this.
21 What did you say was the total depth of this?

22 GEORGE HEFLIN: The total depth is 2,362 feet.

23 MARY QUILLEN: Thank you.

24 GEORGE HEFLIN: You're welcome.

1 BENNY WAMPLER: Any further questions?

2 DONNIE RATLIFF: Mr. Chairman, real quick. The

3 other two..the average costs per foot on a well is like 115,

4 113, 114 staying in that bracket. This one is 143. Do you

5 have any idea---?

6 GEORGE HEFLIN: Why the cost would---?

7 DONNIE RATLIFF: ---why the cost would be that much

8 higher per foot? Site preparation or---?

9 GEORGE HEFLIN: Well, site preparation is part of

10 it. And then, of course, our due diligence costs escalate

11 depending on different factors. The drilling costs should be

12 the same as far as drilling rates. Pipe cost fluctuate at

13 times. But in this particular case, due diligence and site

14 preparation on this one.

15 JIM KAISER: And it looks like the location's a

16 little higher, construction. Day work and possible mine, it

17 says.

18 BENNY WAMPLER: Mr. Kaiser's fee.

19 JIM KAISER: Huh?

20 DONNIE RATLIFF: Mr. Kaiser's fee.

21 JIM KAISER: I'm mumbling. Huh?

22 MARY QUILLEN: Your money.

23 BENNY WAMPLER: I said Mr. Kaiser's fee.

24 JIM KAISER: Yeah, for staying in here all day.

--

1 (Laughs.)

2 JIM KAISER: You'll have to excuse me.

3 BENNY WAMPLER: Anything further?

4 JIM KAISER: No. We'd ask that the application be
5 approved as submitted.

6 BENNY WAMPLER: Is there a motion?

7 PEGGY BARBAR: Motion to approve.

8 MARY QUILLEN: Second.

9 BENNY WAMPLER: Okay. All in favor, signify by
10 saying yes.

11 (All Board members signify by saying yes, except
12 Donnie Ratliff.)

13 BENNY WAMPLER: Opposed, say no.

14 DONNIE RATLIFF: I'll abstain.

15 BENNY WAMPLER: One abstention, Mr. Ratliff. You
16 have approval. The next item on the agenda is a petition
17 from Equitable Production Company for pooling a coalbed
18 methane unit, VC-535877, which is docket number VGOB-06-
19 060...0620-1657. I keep trying transpose those two numbers.
20 You would care of me. Thank you. We'd ask the parties that
21 wish to address the Board in this matter to come forward at
22 this time.

23 JIM KAISER: Mr. Chairman, Jim Kaiser and George
24 Heflin, again, on behalf of Equitable Production Company.

1 BENNY WAMPLER: Let the record show there are no
2 others. You may proceed.

3

4 GEORGE HEFLIN

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. KAISER:

7 Q. George, again, you are familiar with the
8 application we filed seeking to pool the unleased interest in
9 this unit?

10 A. I am.

11 Q. Does Equitable own the drilling rights in
12 the unit involved here?

13 A. We do.

14 Q. And do they have 89.60% of the gas estate
15 under lease?

16 A. We do.

17 Q. And 100% of the coal estate under lease?

18 A. Correct.

19 Q. Which means there's 10.40% of the gas estate
20 that remains unleased---?

21 A. That's correct.

22 Q. ---which is represented by Tracts 2 and 3?

23 A. Yes.

24 Q. Correct? We don't have any unknown interest

--

1 owners in this unit?

2 A. Correct.

3 Q. And are you requesting this Board to force

4 pool all unleased interest listed at Exhibit B-3?

5 A. Yes.

6 Q. Again, what's the fair market value of the

7 drilling rights in this unit and in the surrounding area?

8 A. A five dollar bonus, a five year term and

9 one-eighth royalty.

10 Q. In your opinion, do the terms you just

11 testified to represent fair market value of and fair and

12 reasonable compensation paid for drilling rights in this

13 unit?

14 A. That is correct.

15 JIM KAISER: I'd like to incorporate, Mr. Chairman,

16 the election option testimony once again.

17 BENNY WAMPLER: That will be incorporated.

18 Q. And in this particular case, the Board

19 doesn't...no, no, they do need. We've got competing...

20 conflicting claims. So, the Board needs to establish an

21 escrow account, is that correct?

22 A. The Board...would they need to or we do it

23 internally?

24 Q. Huh?

1 A. Yes.

2 Q. The Board needs to?

3 A. Yes, because it's unleased interest.

4 Q. Yeah. And can it be on all seven tracts?

5 You've either got...you've got a conflicting claim on all of

6 them.

7 SHARON PIGEON: Oh, okay.

8 JIM KAISER: Tracts 1 through 7.

9 Q. And who should be named operator under the

10 pooling order?

11 A. Equitable Production Company.

12 Q. What's the total depth for this well?

13 A. 1,947 feet.

14 Q. Estimated reserves for the unit?

15 A. 250 million.

16 Q. Was an AFE reviewed, signed and submitted to

17 the Board as Exhibit C to this application?

18 A. It was.

19 Q. In your opinion, does it represent a

20 reasonable estimate of the well cost?

21 A. It does.

22 Q. Can you state for the Board the dry hole

23 costs and the completed well costs for this well?

24 A. The dry hole costs are \$136,091 and the

1 completed well costs are \$316,901.

2 Q. And do these cost anticipate a multiple
3 completion?

4 A. They do.

5 Q. Does the AFE include a reasonable charge for
6 supervision?

7 A. It does.

8 Q. In your professional opinion, would the
9 granting of this application be in the best interest of
10 conservation, prevention of waste, and protection of
11 correlative rights?

12 A. Yes, it would.

13 JIM KAISER: Nothing further of this witness at
14 this time, Mr. Chairman.

15 BENNY WAMPLER: Do you give us your percentages?

16 JIM KAISER: Yes.

17 SHARON PIGEON: I don't have it.

18 JIM KAISER: 89.60% of the gas estate.

19 SHARON PIGEON: We actually need to have it from
20 the witness---.

21 JIM KAISER: Okay.

22 Q. What's the interest of Equitable under lease
23 in the gas estate within the unit?

24 A. 89.60%.

1 Q. And the interest under lease to Equitable in
2 the coal estate?
3 A. 100%.
4 Q. And the interest in the gas estate that
5 remains unleased?
6 A. 10.40%.
7 Q. Thank you.
8 SHARON PIGEON: Thank you.
9 BENNY WAMPLER: I don't believe we've had this
10 before.
11 JIM KAISER: I'm sorry, we've only got thirty-five
12 minutes. I'm trying.
13 BENNY WAMPLER: That's all right, as long as we got
14 it all. Is there any questions from members of the Board?
15 (No audible response.)
16 BENNY WAMPLER: Do you have anything further?
17 JIM KAISER: We'd ask that the application be
18 approved as submitted.
19 PEGGY BARBAR: Motion to approve.
20 BENNY WAMPLER: Motion to approve.
21 MARY QUILLEN: Second.
22 BENNY WAMPLER: All in favor, signify by saying
23 yes.
24 (All Board members signify by saying yes, except

1 Donnie Ratliff.)

2 BENNY WAMPLER: Opposed, say no.

3 DONNIE RATLIFF: I'll abstain.

4 BENNY WAMPLER: One abstention, Mr. Ratliff. You
5 have approval. The next is a petition from Chesapeake
6 Appalachia, LLC for pooling of conventional gas unit 825528.
7 This is docket number VGOB-06-0620-1658. We'd ask the
8 parties that wish to address the Board in this matter to come
9 forward at this time.

10 JIM KAISER: Mr. Chairman, Jim Kaiser, Dennis Baker
11 and Stan Shaw on behalf of Chesapeake Appalachia, LLC.

12 BENNY WAMPLER: I'll get you gentlemen raise your
13 right hand and we'll get you sworn in.

14 (Stan Shaw and Dennis Baker is duly sworn.)

15 BENNY WAMPLER: Let the record show there are no
16 others. You may proceed.

17

18 DENNIS BAKER

19 DIRECT EXAMINATION

20 QUESTIONS BY MR. KAISER:

21 Q. Now, Mr. Baker, state your name, who you're
22 employed by and in what capacity?

23 A. Dennis Baker, employed by Chesapeake
24 Appalachia, LLC as senior land representative.

--

1 Q. And do your responsibilities include the
2 land involved here and in the surrounding area?

3 A. Yes, they do.

4 Q. And are you familiar with our application
5 seeking to establish a drilling unit and pool any unleased
6 interest for a Chesapeake Appalachia well number 825528?

7 A. Yes, I am.

8 Q. And does Chesapeake Appalachia own drilling
9 rights in the unit involved here?

10 A. Yes, we do.

11 Q. And what is the interest under lease to
12 Chesapeake within this unit?

13 A. The interest leased is 99.199870 interest
14 leased.

15 Q. So, the percentage that...of the interest in
16 the unit remains unleased would be 0.800130?

17 A. Yes.

18 Q. Okay. And are all unleased parties set out
19 in Exhibit B-3?

20 A. Yes, they are.

21 Q. And I don't believe we have any unknown
22 parties in this unit, do we?

23 A. I don't believe so, no.

24 Q. In fact, really the only thing we're pooling

1 is the interest that CNX has leased?

2 A. Yes.

3 Q. Okay. Are you requesting this Board to
4 force pool all unleased interest listed at Exhibit B-3?

5 A. Yes.

6 Q. Are you familiar with the fair market value
7 of drilling rights in the unit here and in the surrounding
8 area?

9 A. Yes, I am.

10 Q. Could you advise the Board as to what those
11 are?

12 A. A five dollar per acre consideration, a five
13 year term and a one-eighth royalty.

14 Q. And, in your opinion, do the terms you've
15 testified to represent fair market value of and fair and
16 reasonable compensation to be paid for drilling rights within
17 this unit?

18 A. Yes.

19 JIM KAISER: Can I incorporate?

20 BENNY WAMPLER: You may.

21 JIM KAISER: And I'd ask that the testimony taken
22 from our earlier hearing number 06-0620-1653 regarding
23 election options afforded any unleased parties be
24 incorporated for purposes of this hearing.

--

1 BENNY WAMPLER: Do you accept those, Mr. Baker?

2 DENNIS BAKER: Yes, I do.

3 BENNY WAMPLER: They're incorporated.

4 JIM KAISER: Thank you.

5 Q. We do not need to establish an escrow

6 account in this case do we, Mr. Baker?

7 A. No.

8 Q. We don't have any unknown owners. It's a

9 conventional well. Who should be named operator under any

10 force pooling order?

11 A. Chesapeake Appalachia, LLC.

12 JIM KAISER: Nothing further from this witness, Mr.

13 Chairman.

14 BENNY WAMPLER: Questions from members of the

15 Board?

16 (No audible response.)

17 BENNY WAMPLER: Call your next witness.

18

19 STAN SHAW

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. KAISER:

22 Q. Mr. Shaw, could you state your name for the

23 Board, who you're employed by and in what capacity?

24 A. My name is Stan Shaw. I'm employed by

--

1 Chesapeake Appalachia as a reservoir engineer.

2 Q. Do your responsibilities include the land
3 involved here and in the surrounding area?

4 A. Yes.

5 Q. And what's the total depth of this proposed
6 well?

7 A. 5,675 feet.

8 Q. Estimated reserves for the unit?

9 A. 400 million cubic feet.

10 Q. Has an AFE been reviewed, signed and
11 submitted to the Board as Exhibit C?

12 A. Yes.

13 Q. In your opinion, does it represent a
14 reasonable estimate of the well costs?

15 A. It does.

16 Q. Could you state for the Board both the dry
17 hole costs and completed well costs for this well?

18 A. Dry hole costs are \$282,620. Completed well
19 cost are \$486,658.40.

20 Q. Do these costs anticipate a multiple
21 completion?

22 A. Yes.

23 Q. Does your AFE include a reasonable charge
24 for supervision?

1 A. It does.

2 Q. In your professional opinion, would the
3 granting of this application be in the best interest of
4 conservation, the prevention of waste and the protection of
5 correlative rights?

6 A. Yes.

7 JIM KAISER: Nothing further of this witness at
8 this time, Mr. Chairman.

9 BENNY WAMPLER: Questions from members of the
10 Board?

11 (No audible response.)

12 BENNY WAMPLER: Do you have anything further?

13 JIM KAISER: We'd ask that the application be
14 approved as submitted.

15 BENNY WAMPLER: Is there a motion?

16 PEGGY BARBAR: Motion to approve.

17 MARY QUILLEN: Second.

18 BENNY WAMPLER: Second. Any further discussion?

19 (No audible response.)

20 BENNY WAMPLER: All in favor, signify by saying
21 yes.

22 (All Board members signify by saying yes.)

23 BENNY WAMPLER: Opposed, say no.

24 (No audible response.)

1 BENNY WAMPLER: You have approval. The next---.
2 (Mr. Ratliff confers with Mr. Wampler.)
3 BENNY WAMPLER: We had a question about your
4 surface owners not listed on your plat. It's on the one we
5 just approved.
6 DENNIS BAKER: I'm sorry?
7 JIM KAISER: Well, I don't know why they would be.
8 We're doing a force pooling.
9 BENNY WAMPLER: Well, he's just asking about
10 whether they are listed.
11 JIM KAISER: I understand for a permit, but why
12 would they have to be on there for a force pooling.
13 BENNY WAMPLER: Well---.
14 DONNIE RATLIFF: To keep me clean, so I
15 don't---.
16 JIM KAISER: So, you know when to abstain.
17 BENNY WAMPLER: Well, it does help from that
18 standpoint.
19 JIM KAISER: All right.
20 SHARON PIGEON: It really does.
21 BENNY WAMPLER: Because he needs to know.
22 DENNIS BAKER: We have a DGO7 supplement to the
23 plat has a surface and gas owners for the drill site tract.
24 JIM KAISER: Is that in the application?

--

1 DENNIS BAKER: It should have been.

2 BOB WILSON: That's the tract identification.

3 BENNY WAMPLER: Yes. We need that for Board

4 members that might have a conflict---.

5 JIM KAISER: Okay.

6 BENNY WAMPLER: ---and those kinds of things.

7 That's...that's the purpose of it, so they would have it.

8 JIM KAISER: I'll make a note of it---.

9 DONNIE RATLIFF: Yeah, that was in Harman, so I'm

10 okay there.

11 BENNY WAMPLER: Next is a petition from Chesapeake

12 Appalachia, LLC of pooling conventional gas unit 824731,

13 docket number VGOB-06-0620-1659. We'd ask the parties that

14 wish to address the Board in this matter to come forward at

15 this time.

16 JIM KAISER: Mr. Chairman, again, Jim Kaiser,

17 Dennis Baker and Stan Shaw for Chesapeake Appalachia.

18 BENNY WAMPLER: The record will show no others.

19 You may proceed.

20

21 DENNIS BAKER

22 DIRECT EXAMINATION

23 QUESTIONS BY MR. KAISER:

24 Q. Mr. Baker, again, do your responsibilities

--

1 include the land involved here and in the surrounding area?

2 A. Yes, they do.

3 Q. And are you familiar with the application we
4 filed seeking to establish a drilling unit and pool any
5 unleased interest for this well number?

6 A. Yes.

7 Q. And what is the interest in this unit that's
8 under lease to Chesapeake Appalachia at the time of the
9 application? I know we've got a revised exhibit, which
10 reflects additional leases picked up since the time of the
11 application.

12 A. The interest leased to Chesapeake at the
13 time of the application was 81.046825%. The additional
14 leases that we've acquired and currently the percentage
15 leased to Chesapeake is 81.657941%.

16 Q. And those additional leases are highlighted
17 in the revised exhibit for the Board members?

18 A. Yes.

19 Q. Okay. They're representing quite a few
20 small interests. So, you've done a good job on your
21 continuing due diligence. And all the unleased parties, as
22 they now stand, are set out in revised Exhibit B-3?

23 Q. Yes. Okay. I don't think we have any
24 unknowns, do we?

--

1 A. No.

2 Q. No, no unknowns. Are you requesting this
3 Board to force pool all unleased interest listed at Exhibit
4 B-3?

5 A. Yes.

6 Q. Are you familiar with the fair market value
7 of drilling rights in the unit here and in the surrounding
8 area?

9 A. Yes, I am.

10 Q. Could you advise the Board, again, as to
11 what those are?

12 A. A five dollar per acre consideration, a five
13 year term and a one-eighth royalty.

14 Q. Do the terms you've testified to, in your
15 opinion, represent fair market value of and fair and
16 reasonable compensation to be paid for drilling rights within
17 this unit?

18 A. Yes.

19 JIM KAISER: Again, Mr. Chairman, we'd ask that the
20 election testimony and the time periods in which to make
21 those be incorporated

22 BENNY WAMPLER: They will be incorporated.

23

24 Q. The Board would not need to establish an

25

1 escrow account for this unit, correct?

2 A. Correct.

3 Q. Who should be named operator under any force
4 pooling order?

5 A. Chesapeake Appalachia, LLC.

6 JIM KAISER: Nothing further of this witness at
7 this time, Mr. Chairman.

8 BENNY WAMPLER: Questions from members of the
9 Board?

10 (No audible response.)

11 BENNY WAMPLER: Call your next witness.

12

13 STAN SHAW

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. KAISER:

16 Q. Mr. Shaw, do your responsibilities include
17 the land involved here and in the surrounding area?

18 A. Yes.

19 Q. And the proposed depth of this well?

20 A. 5,690 feet.

21 Q. Estimated reserves for the unit?

22 A. 490 million cubic feet.

23 Q. Has an AFE been reviewed, signed and
24 submitted to the Board as Exhibit C?

--

1 A. It has.

2 Q. In your opinion, does it represent a
3 reasonable estimate of the well costs?

4 A. It does.

5 Q. Could you state both the dry hole costs and
6 completed well costs for this well?

7 A. Dry hole costs are \$251,440 and completed
8 well cost are \$474,586.25.

9 Q. Do these costs anticipate a multiple
10 completion?

11 A. Yes.

12 Q. Does your AFE include a reasonable charge
13 for supervision?

14 A. It does.

15 Q. In your professional opinion, would the
16 granting of this application be in the best interest of
17 conservation, the prevention of waste and the protection of
18 correlative rights?

19 A. Yes.

20 JIM KAISER: Nothing further of this witness at
21 this time, Mr. Chairman.

22 BENNY WAMPLER: Questions from members of the
23 Board?

24 (No audible response.)

1 BENNY WAMPLER: Going back to Mr. Baker. What was
2 the unleased percentage?
3 DENNIS BAKER: Currently?
4 BENNY WAMPLER: Under the revised.
5 DENNIS BAKER: The...at the time of the hearing,
6 the unleased percentage is 18.342059.
7 BENNY WAMPLER: Thank you. Other questions from
8 members of the Board?
9 (No audible response.)
10 BENNY WAMPLER: Do you have anything further?
11 JIM KAISER: Mr. Chairman, we'd ask that the
12 application be approved as submitted with the revised set of
13 exhibits.
14 BENNY WAMPLER: Is there a motion?
15 MARY QUILLEN: Motion to approve.
16 DONNIE RATLIFF AND PEGGY BARBAR: Second.
17 BENNY WAMPLER: Second. Any further discussion?
18 (No audible response.)
19 BENNY WAMPLER: All in favor, signify by saying
20 yes.
21 (All Board members signify by saying yes.)
22 BENNY WAMPLER: Opposed, say no.
23 (No audible response.)
24 BENNY WAMPLER: You have approval. We're going to

--

1 number twenty-nine on the agenda. Next is a petition from
2 Chesapeake Appalachia, LLC for a well location exception for
3 proposed well 825945, docket number VGOB-06-0620-1661. We'd
4 ask the parties that wish to address the Board in this matter
5 to come forward at this time. Twenty-Eight was continued and
6 thirty is continued.

7 JIM KAISER: Yeah, we had a notice problem. We had
8 a person that we didn't get. So, I was going to do those in
9 July. In this case, Mr. Chairman, it will be Jim Kaiser and
10 Stan Shaw.

11 BENNY WAMPLER: The record will show no others.
12 You may proceed.

13

14 STAN SHAW

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. KAISER:

17 Q. Mr. Shaw, do your responsibilities include
18 the land involved here in this unit and in the surrounding
19 area?

20 A. Yes.

21 Q. And you're familiar with the application we
22 filed seeking a location exception for this well?

23 A. I am.

24 Q. And have all interested parties been

--

1 notified as required by Section 4(B) of the Virginia Gas and
2 Oil Board Regulations?

3 A. Yes.

4 Q. Could you indicate for the both the
5 ownership of the drilling rights underlying well...the unit
6 for well number 825945?

7 A. Chesapeake Appalachia owns 100%.

8 Q. And does Chesapeake Appalachia have the
9 right to operate any reciprocal wells and/or proposed
10 reciprocal wells?

11 A. Yes.

12 Q. Okay. So, there are no correlative rights
13 issues?

14 A. No.

15 Q. I believe, as we stated in our application,
16 this was essentially a site selected by the coal operator, is
17 that correct?

18 A. Yes. We've got---.

19 Q. But, I mean, that's the reason we're seeking
20 the location? That's why we've got to put here is because
21 this is where the coal owner wants it?

22 A. Yes.

23 Q. Okay. And in the event this location
24 exception were not granted, were you project the estimated

--

1 loss of reserves?

2 A. 450 million cubic feet.

3 Q. And the total depth of the proposed well?

4 A. 5,050 feet.

5 Q. Are we requesting this location exception to

6 cover conventional gas reserves to include designated

7 formations as listed in the application and in the permit

8 application from the surface to the total depth drilled?

9 A. Yes.

10 Q. In your opinion, would the granting of this

11 location exception be in the best interest of preventing

12 waste, protecting correlative rights and maximizing the

13 recovery of the gas reserves underlying the unit for 825945?

14 A. Yes.

15 JIM KAISER: Nothing further at this time, Mr.

16 Chairman.

17 BENNY WAMPLER: Questions from members of the

18 Board?

19 (No audible response.)

20 JIM KAISER: Is there a motion?

21 PEGGY BARBAR: Motion to approve.

22 MARY QUILLEN: Second.

23 BENNY WAMPLER: Motion is second. Any further

24 discussion?

1 (No audible response.)

2 BENNY WAMPLER: All in favor, signify by saying

3 yes.

4 (All Board members signify by saying yes.)

5 BENNY WAMPLER: Opposed, say no.

6 (No audible response.)

7 BENNY WAMPLER: You have approval. Thirty is

8 continued. We're going to thirty-one. A petition---.

9 JIM KAISER: Let's go, boys.

10 BENNY WAMPLER: A petition from Appalachia Energy,

11 Inc. for pooling of coalbed methane unit AE-157, docket

12 number VGOB-05-0620-1663. We'd ask the parties that wish to

13 address the Board in this matter to come forward at this

14 time.

15 JIM KAISER: Mr. Chairman, it will be Jim Kaiser,

16 Frank Henderson and Jim Talkington on behalf of Appalachia

17 Energy.

18 JIM KAISER: Do you want to give these out, Frank,

19 for everything?

20 BENNY WAMPLER: Do you need all three of these?

21 JIM TALKINGTON: Excuse me?

22 BENNY WAMPLER: None of these are continued? I'm

23 just housekeeping here.

24 JIM KAISER: Okay. We revised AFEs. Let me get

1 those passed out.

2 (Exhibits are passed out.)

3 BENNY WAMPLER: Just hand them to Ms. Quillen and
4 she'll pass them.

5 JIM KAISER: Okay. And let me give you a little
6 background on this first. I guess it would kind of be
7 relevant that some...what took place. We found this
8 application seeking to pool the unit for AE-157, okay. Then,
9 as you know, last month you approved an increased density
10 application for Appalachia Energy in another area of Buchanan
11 County. Next month, on the July docket, it was filed Friday
12 with the rest of our applications, we will be seeking an
13 increased density...the right to drill increased density
14 wells in these three units. There's five different Whitewood
15 units. It will be these three units and two adjoining...they
16 all are adjoining and two more units that we'll force pool
17 next month. So, in light of the discussion that we've been
18 going through regarding what happens to the force pooled
19 parties when the second well is drilled, do they get another
20 election, should they get another election, we decided that
21 at least certainly in this case on a prospective basis, then
22 maybe the best thing to do is pool both the wells in one
23 application and that takes that problem away, not only for
24 the Board, but also the operator. So, what you have before

--

1 you is an AFE for both of the wells and an application that
2 will be...actually of the unit, but we'd like to include well
3 AE-157 and 156. We think that's a prudent way to do it
4 particularly, obviously, to resolve the issue of, you know,
5 wells that force pooled parties get an election on that
6 second well. Now, obviously, these...if you approve these
7 applications, they will be contingent upon...the second well
8 be contingent upon the approval of the increased density
9 application that you'll hear next month and we certainly
10 realize that. Does that make sense to everybody?

11 BENNY WAMPLER: Okay. Yeah, I want to make a
12 correction to the...to the docket number because I...we had a
13 type. It's VGOB-06-0620-1663. You may---.

14 JIM KAISER: Does that...does that sort of make
15 sense to you because it takes the problem out of your hands
16 too to do it this way?

17 BENNY WAMPLER: Let's go.

18 JIM KAISER: All right.

19 BENNY WAMPLER: We'll let you know if we've got a
20 problem.

21 JIM KAISER: All right.

22 BENNY WAMPLER: Go.

23 JIM KAISER: Otherwise, just shut up and go, okay.

24

--

1 JIM TALKINGTON

2 having been duly sworn, was examined and testified as
3 follows:

4 DIRECT EXAMINATION

5 QUESTIONS BY MR. KAISER:

6 Q. Jim, state your name, who you're employed by
7 and in what capacity?

8 A. Jim Talkington, Land Agent for Appalachian
9 Energy.

10 Q. Do your responsibilities include---?

11 BENNY WAMPLER: All right, are they sworn in?

12 JIM KAISER: Oh, they hadn't been sworn. No, I'm
13 sorry.

14 (Jim Talkington and Frank Henderson are duly
15 sworn.)

16 Q. All right, Mr. Talkington, state your name,
17 who you're employed by and in what capacity?

18 A. Jim Talkington, Land Agent for Appalachian
19 Energy.

20 Q. Do your responsibilities include the land
21 involved here and in the surrounding area?

22 A. That's correct.

23 Q. Are you familiar with the application that
24 we filed seeking a pooling order?

--

1 A. I am.

2 Q. And does Appalachian Energy, Inc. own
3 drilling rights in the unit involved here?

4 A. Yes, they do.

5 Q. And what is the interest...these are coalbed
6 methane wells, but they're...the tracts are fee mineral
7 tracts, right?

8 A. That's correct.

9 Q. And so what is the interest of Appalachian
10 Energy under lease in both the gas and coal estate in this
11 unit?

12 A. 78.14%.

13 Q. Okay. And are all unleased parties set out
14 at Exhibit B-3?

15 A. Yes, they are.

16 Q. And what is the interest in the gas and coal
17 estate within the unit that remains unleased?

18 A. 21.85%.

19 Q. And I don't think we have any unknown
20 entities?

21 A. No, sir.

22 Q. Oh, I'm sorry, we do.

23 A. Do we?

24 Q. Linda Owens Brown---.

1 A. Oh, yeah.

2 Q. ---and Mary Steele Carter. Okay. Were

3 efforts made to locate these people?

4 A. Yes, they were.

5 Q. And did you check deed records, probate

6 records, assessors records, treasurer's records, telephone

7 directories, city directories, family and friends?

8 A. Yes, we did.

9 Q. So, in your professional opinion, due

10 diligence was exercised to locate them?

11 A. Yes, sir.

12 Q. Okay. And are you requesting this Board to

13 force pool all unleased interest as listed at Exhibit B-3?

14 A. Yes, we are.

15 Q. Are you familiar with the fair market value

16 of drilling rights in the unit here and in the surrounding

17 area?

18 A. Yes.

19 Q. Could you advise the Board as to what those

20 are?

21 A. A five dollar bonus, a five dollar delay

22 rental and a one-eighth royalty.

23 Q. And what's your term?

24 A. Five years.

1 Q. A five year term. In your opinion, do the
2 terms you just testified to represent the fair market value
3 of and fair and reasonable compensation to be paid for
4 drilling rights within this unit?

5 A. Yes.

6 JIM KAISER: Now, Mr. Chairman, at this time, if
7 you will allow us, I would like to incorporate the election
8 option testimony---.

9 BENNY WAMPLER: We will incorporate it.

10 JIM KAISER: ---and add that it will be afforded to
11 the unleased parties and the force pooled parties in the unit
12 for both wells should you approve that.

13 BENNY WAMPLER: Is that acceptable, Mr. Talkington?

14 JIM TALKINGTON: Yes, it is.

15 BENNY WAMPLER: That will be incorporate.

16 Q. And, Jim, who should be named...we do need
17 to establish an escrow account for those tracts that have the
18 unknown interest owners, right?

19 A. Appalachian Energy, Inc.

20 Q. No, no, I didn't ask you that question yet.

21 A. Oh.

22 Q. We've got...we're on the escrow now. The
23 Board needs to escrow...set up an escrow account for the two
24 unknown interest that are in Tract 3?

--

1 A. 3.

2 Q. Tract 3?

3 A. Yes.

4 Q. And who should be named the operator under
5 any force pooling order?

6 A. Appalachian Energy, Inc.

7 JIM KAISER: All right. Nothing further of this
8 witness at this time, Mr. Chairman.

9 BENNY WAMPLER: The pages aren't numbered for
10 these. But in Exhibit B you have listed Mary Steele Carter
11 as address unknown and leased.

12 JIM KAISER: Huh?

13 SHARON PIGEON: It's also for Brenda Owens Brown.

14 BENNY WAMPLER: And also for Brenda Owens.

15 JIM TALKINGTON: I can answer that.

16 BENNY WAMPLER: Okay.

17 JIM TALKINGTON: Those were two individuals who
18 I've recently their checks have come back as undeliverable.
19 They were known at one time, but they have yet to inform us
20 of a new location or---.

21 BENNY WAMPLER: So, they're unleased as far as the
22 corrected exhibit goes?

23 JIM TALKINGTON: Yes.

24 BENNY WAMPLER: So, if you'll provide a corrected

1 exhibit to Mr. Wilson.

2 JIM KAISER: Well, no, actually if you've actually
3 got a signed lease from them---.

4 JIM TALKINGTON: I'm sorry. They're actually
5 leased---.

6 SHARON PIGEON: They're still leased.

7 BENNY WAMPLER: Oh, I'm sorry.

8 JIM TALKINGTON: ---but most of these individuals
9 are in conventional units, which Appalachian operates and
10 these are two particular payees on other conventional wells
11 that lately their checks have come back as undeliverable.

12 JIM KAISER: So, they have moved and left no
13 forwarding address, but they're leased?

14 JIM TALKINGTON: Right.

15 BENNY WAMPLER: I gotcha.

16 BOB WILSON: Mr. Chairman.

17 BENNY WAMPLER: Mr. Wilson.

18 BOB WILSON: We will need an Exhibit E, which I
19 don't believe we had with this, since you have unknowns to be
20 escrowed.

21 JIM KAISER: Okay. That's my fault.

22 JIM TALKINGTON: For which one?

23 JIM KAISER: We need an Exhibit E, because, you
24 know, right now they are unknown because we don't know where

1 they are. They're unlocateable. They're not unknown,
2 they're unlocateable.

3 BENNY WAMPLER: Right. So, you'll provide that to
4 Mr. Wilson?

5 JIM KAISER: Yes, sir.

6 BENNY WAMPLER: Okay. Questions from members of
7 the Board of this witness?

8 (No audible response.)

9 BENNY WAMPLER: Call your next witness.
10

11 FRANK HENDERSON
12 having been duly sworn, was examined and testified as
13 follows:

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. KAISER:

16 Q. Mr. Henderson, would you state your name for
17 the Board, who you're employed by and in what capacity?

18 A. Frank Henderson, Appalachian Energy,
19 President.

20 Q. And you're familiar with the application we
21 filed seeking to pool these...this unit and these wells?

22 A. Yes.

23 Q. And what's the total depth of the proposed
24 initial well under the plan of development?

--

1 A. 1979 feet.

2 Q. And would that be the proposed depth for the
3 second well should it be drilled?

4 A. The second well, should it be drilled, will
5 be 2,004 feet.

6 Q. Okay. And just to clarify, the second well
7 would be 8156?

8 A. That's correct.

9 Q. Okay. And the estimated reserves for the
10 unit?

11 A. 375 thousand.

12 Q. Okay. And that will be different, I think--
13 -.

14 A. 375 million.

15 Q. That's different from...yeah, that's
16 different from what we filed in the original application
17 because when we filed the application, we were just looking
18 at the one well.

19 A. With one well we were looking at 250
20 million.

21 BENNY WAMPLER: That's combined, right, the two
22 wells.

23 Q. Yes, sir.

24 A. It would be combined, yes, sir.

1 BENNY WAMPLER: Okay. Go ahead.

2 Q. And you're familiar with the well costs for
3 the proposed wells?

4 A. Yes.

5 Q. And an AFE has been reviewed, signed
6 and...two AFEs have been reviewed, signed and submitted to
7 the Board, one for 157 and one for 156?

8 A. Yes.

9 Q. And could you state...in my opinion, are
10 those...does the AFEs represent reasonable estimates of the
11 well costs?

12 A. Yes.

13 Q. Could you state for the Board the dry hole
14 costs and the completed well costs first for 157 and then
15 156, please?

16 A. 157 the dry hole costs is \$140,961 and the
17 completed costs \$334,339. 165---.

18 Q. No, no, no.

19 A. Oh, I'm sorry. I grabbed the wrong thing
20 here. I'm sorry.

21 Q. 157 and 156.

22 A. Could I restate that?

23 BENNY WAMPLER: Yeah, we'll strike that and
24 restate.

1 A. AE-157 \$126,390 and completed costs of
2 \$276,039. AE-156 the dry hole costs \$116,940 and completed
3 costs \$292,259.

4 Q. Do these costs anticipate multiple
5 completion?

6 A. Yes, they do.

7 Q. Does your AFE include a reasonable charge
8 for supervision?

9 A. Yes.

10 Q. In your professional opinion, would the
11 granting of this application be in the best interest of
12 conservation,---?

13 A. Yes.

14 Q. ---the prevention of waste and the
15 protection of correlative rights?

16 A. Yes.

17 JIM KAISER: Nothing further of this witness at
18 this time, Mr. Chairman.

19 BENNY WAMPLER: Questions from members of the
20 Board?

21 (No audible response.)

22 BENNY WAMPLER: Is there a motion?

23 DONNIE RATLIFF: I move to approve, Mr. Chairman.

24 PEGGY BARBAR: Second.

--

1 BENNY WAMPLER: Second. Any further discussion?
2 (No audible response.)
3 BENNY WAMPLER: All in favor, signify by saying
4 yes.
5 (All Board members signify by saying yes.)
6 BENNY WAMPLER: Opposed, say no.
7 (No audible response.)
8 BENNY WAMPLER: You have approval.
9 BOB WILSON: Mr. Chairman.
10 BENNY WAMPLER: Mr. Wilson.
11 BOB WILSON: Just a point of clarification, when
12 you submit...on the order...the draft order is submitted for
13 this, presumably there will be a total of both of these
14 wells, which will be the costs of participation... estimate
15 costs of participation, is that correct? In other words---?
16 BENNY WAMPLER: By adding up the AFEs for both.
17 JIM KAISER: Yeah, yeah.
18 BOB WILSON: Yes, okay. And the order, presumably,
19 will not be issued or drafted until after the next hearing---
20 .
21 JIM KAISER: Right.
22 BOB WILSON: ---because that could make the issue
23 moot.
24 JIM KAISER: Right.

1 BOB WILSON: Okay.

2 JIM KAISER: Yeah, I won't even have...my office
3 won't even send them to you until after the increased density
4 application, if it is approved, is approved next month---.

5 BOB WILSON: Yes, sir. Thank you.

6 JIM KAISER: ---so I won't confuse you.

7 BENNY WAMPLER: The next item on the agenda is a
8 petition from Appalachian Energy, Inc. for pooling of coalbed
9 methane unit AE-164. This is docket number VGOB-06-0620-
10 1664. We'd ask the parties that wish to address the Board in
11 this matter to come forward this time.

12 JIM KAISER: Again, Mr. Chairman, Jim Kaiser, Jim
13 Talkington and Frank Henderson. Again, what you're going to
14 be getting is being passed around now, revised AFEs and a
15 new...included AFE for the original well that we filed for
16 was 164 and then the second well in this unit is 165.

17 BENNY WAMPLER: I want you to know, Ms. Barbar has
18 graciously agreeing to stay here until finish this.

19 JIM KAISER: Okay.

20 BENNY WAMPLER: You're on special privileged time.

21 JIM KAISER: Thank you. I'll try to...ten minutes
22 is all I probably need, hopefully.

23 SHARON PIGEON: Stop talking.

24

--

1

2

JIM TALKINGTON

3

DIRECT EXAMINATION

4 QUESTIONS BY MR. KAISER:

5

Q. All right, Jim, do your responsibilities

6

include the land involved here and in the surrounding area?

7

A. Yes, they do.

8

Q. And does Appalachian Energy, Inc. own

9

drilling rights in the unit involved here?

10

A. Yes, they do.

11

Q. And, again, we're dealing with a fee mineral

12

tract?

13

A. Yes.

14

Q. And the percentage under lease in both the

15

gas and coal estate in this unit?

16

A. 71.87%.

17

Q. And are all unleased parties set out in

18

B-3?

19

A. Yes, they are.

20

Q. So, what is the interest in the coal...oil,

21

gas and coal estate that remains unleased?

22

A. 28.15%.

23

BENNY WAMPLER: Somehow they don't add up. Those

24

numbers just don't jive here.

--

1 JIM KAISER: Huh?

2 BENNY WAMPLER: Does two percentages don't---?

3 JIM KAISER: They don't add up?

4 BENNY WAMPLER: ---calculate?

5 JIM KAISER: 71...no, they don't, do they? Shoot

6 fire. All right. Let me get this from the exhibit.

7 A. 28.13.

8 JIM KAISER: Yeah, it should be 28.15 unleased.

9 BENNY WAMPLER: Okay.

10 JIM KAISER: I'm sorry.

11 SHARON PIGEON: You're going to be providing us a

12 new one of those, correct?

13 JIM KAISER: Yeah. This are the ones that we did

14 late on that Friday, I believe.

15 JIM TALKINGTON: Yes.

16 BENNY WAMPLER: We'll need a new Exhibit B and B-3

17 corrected also. Proceed.

18 Q. We don't have any unknown or unlocateables

19 in this unit or any conflicting claims to the coalbed

20 methane, correct?

21 A. Correct.

22 Q. So, the Board does not need to establish an

23 escrow account?

24 A. No.

1 Q. Are you familiar with the fair market value
2 of drilling rights?

3 A. Yes.

4 Q. Could you advise the Board as to what those
5 are?

6 A. A five dollar bonus, a five dollar term and
7 a one-eighth royalty.

8 Q. In your opinion, do those terms represent
9 the fair market value?

10 A. Yes.

11 JIM KAISER: And, Mr. Chairman, we'd ask again that
12 the election option testimony be incorporated.

13 BENNY WAMPLER: That will be incorporate.

14 Q. And, Jim, who should be named operator under
15 any force pooling order?

16 A. Appalachian Energy, Inc.

17 JIM KAISER: Nothing further of this witness, Mr.
18 Chairman.

19 BENNY WAMPLER: Questions from members of the Board
20 of this witness?

21 (No audible response.)

22 BENNY WAMPLER: Call your next witness.

23

24 FRANK HENDERSON

--

1 DIRECT EXAMINATION

2 QUESTIONS BY MR. KAISER:

3 Q. Mr. Henderson, are you familiar with the
4 application we filed here?

5 A. Yes.

6 Q. And what's the total depth of the
7 proposed...what's the total depth of 164 and then 165?

8 A. 164 2102 and 165 2100.

9 Q. Okay. And the estimated reserves for the
10 unit?

11 A. 375 million.

12 Q. Okay. And, again, that's different from the
13 application.

14 A. For both wells.

15 Q. Right for both wells. So, that's the total
16 estimated reserves for the entire unit. And has an
17 AFE...have two AFEs have been reviewed, signed and submitted
18 to the Board?

19 A. Yes.

20 Q. In your opinion, do they represent a
21 reasonable estimate of the well costs?

22 A. Yes.

23 Q. Could you state the well costs for both
24 wells starting with well 164?

--

1 A. AE-164 \$140,961 dry hole and the completed
2 costs \$334,339.

3 Q. Do these costs anticipate a multiple
4 completion?

5 A. Yes. AE-165, do you want me to do that?

6 Q. Oh, I'm sorry.

7 A. \$145,540 dry hole and completed costs
8 \$300,216.

9 Q. Do both of these anticipate a multiple
10 completion?

11 A. Yes.

12 Q. Both include a reasonable charge for
13 supervision?

14 A. Yes.

15 Q. In your professional opinion, did the
16 granting of this application would be in the best interest of
17 conservation, the prevention of waste and the protection of
18 correlative rights?

19 A. Yes.

20 Q. And, again, just for the Board to kind of
21 ease your mind, which you have to be worried at this point.
22 These are all adjoining units. The two that we're going to
23 do next month are adjoining units too, correct?

24 A. That's correct.

1 BENNY WAMPLER: And, again, this would total the
2 two AFEs to get---?
3 JIM KAISER: Right.
4 BENNY WAMPLER: ---to get the total well costs?
5 JIM KAISER: Incorporate Mr. Wilson's testimony
6 from the previous hearing or his statement.
7 BENNY WAMPLER: Okay. Anything further?
8 JIM KAISER: Nothing further at this time,
9 Mr...we'd ask that the application be approved as submitted
10 with the additional AFEs?
11 BENNY WAMPLER: Is there a motion?
12 DONNIE RATLIFF: So moved, Mr.---.
13 MARY QUILLEN: Motion to approve.
14 BENNY WAMPLER: Motion and a second. Any further
15 discussion?
16 (No audible response.)
17 BENNY WAMPLER: All in favor, signify by saying
18 yes.
19 (All Board members signify by saying yes.)
20 BENNY WAMPLER: Opposed, say no.
21 (No audible response.)
22 JIM KAISER: You have approval. If there's extra
23 copies of those AFEs down there, I need one, please. I'll
24 keep one this time.

1 BENNY WAMPLER: Next...next it a petition from
2 Appalachian Energy, Inc. for pooling of coalbed methane unit
3 AE-175, docket number VGOB-06-0620-1665. We'd ask the
4 parties that wish to address the Board in this matter to come
5 forward at this time.

6 JIM KAISER: Jim Kaiser, Jim Talkington and Frank
7 Henderson on behalf of Appalachian Energy. This is going to
8 be for unit AE-175 and 158.

9 BENNY WAMPLER: The record show no others, you may
10 proceed.

11

12 JIM TALKINGTON

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. KAISER:

15 Q. Jim, are you familiar with the land involved
16 here and in the surrounding area?

17 A. Yes, I am.

18 Q. And does Appalachian Energy, Inc. own
19 drilling rights in the unit involved here?

20 A. Yes, they do.

21 Q. And, again, the coal and gas estate, it's a
22 fee mineral tract...fee mineral tracts?

23 A. Yes.

24 Q. And what's the interest under lease for

--

1 Appalachia Energy in the unit in both the coal...I mean, the
2 oil, gas and coal estates?

3 A. 96.79%.

4 Q. And are all unleased parties set out in
5 B-3?

6 A. Yes, they are.

7 Q. So, what percentage of the oil, gas and coal
8 estate remains unleased at this time?

9 A. 3.21%.

10 Q. We have the same unlocateable former lessors
11 in this unit?

12 A. Yes.

13 Q. So, the Board does need to establish an
14 escrow account for...in this case, it's only Tract 2, isn't
15 it?

16 A. That's---.

17 Q. Tract 2.

18 A. Yes.

19 Q. Are you requesting the Board to force pool
20 all unleased interest as listed at Exhibit B-3?

21 A. Correct.

22 Q. And, again, state the fair market value of
23 drilling rights in this unit for us?

24 A. A five dollar bonus, a five dollar term and

--

1 a one-eighth royalty.

2 Q. In your opinion, do the terms you just
3 testified to represent the fair market value of and the fair
4 and reasonable compensation to be paid for drilling rights in
5 within this unit?

6 A. Yes, they do.

7 JIM KAISER: Mr. Chairman, at this time, we'd ask
8 that the election options and time periods in which to make
9 those elections be incorporated for purposes of this hearing.

10 BENNY WAMPLER: That will be incorporate.

11 Q. Who should be named operator under the force
12 pooling order?

13 A. Appalachian Energy, Inc.

14 JIM KAISER: Nothing further of this witness at
15 this time, Mr. Chairman.

16 BENNY WAMPLER: Questions from members of the Board
17 of this witness?

18 (No audible response.)

19 BENNY WAMPLER: Call your next witness.

20

21 FRANK HENDERSON

22 DIRECT EXAMINATION

23 QUESTIONS BY MR. KAISER:

24 Q. Frank, you're familiar with the application

--

1 we filed here?

2 A. Yes.

3 Q. Can you state for the Board the depth for
4 both of the proposed wells?

5 A. AE-175 1948 and AE-158 1962.

6 Q. And the estimated reserves for the unit?

7 A. 375 million.

8 Q. Okay. And AFEs have been reviewed, signed
9 and submitted to the Board for both wells?

10 A. Yes, they have.

11 Q. In your opinion, do the AFEs represent a
12 reasonable estimate of the well costs for those wells?

13 A. Yes.

14 Q. And could you state for the Board both dry
15 hole costs and completed well costs for the two wells
16 starting with AE-175?

17 A. Dry hole costs \$125,708 and completed well
18 costs \$278,222. AE-158 dry hole costs \$425,409 and completed
19 costs \$300,275.

20 Q. Do both these wells anticipate a multiple
21 completion?

22 A. Yes.

23 Q. And both AFEs contain a reasonable charge
24 for supervision?

1 A. Yes.

2 Q. In your professional opinion, did the
3 granting of this application be in the best interest of
4 conservation, the prevention of waste and the protection of
5 correlative rights?

6 A. Yes.

7 JIM KAISER: Nothing further of this witness at
8 this time, Mr. Chairman.

9 BENNY WAMPLER: Questions?

10 SHARON PIGEON: Will you give us resources? Did he
11 give his resources?

12 JIM KAISER: 375 for both wells in the unit.

13 BENNY WAMPLER: Questions from members of the
14 Board?

15 (No audible response.)

16 BENNY WAMPLER: Do you have anything further?

17 JIM KAISER: Mr. Chairman, again, we'd ask that the
18 application be approved as submitted with the additional AFE
19 and additional well included and then, of course, all the
20 stuff about how we won't submit the Board order...the Board
21 order will include a total of the two AFEs so that the people
22 can decide, you know, upon that whether or not to participate
23 and we won't submit the order until after we know whether or
24 not the increased density application next month is approved.

--

1 BENNY WAMPLER: Is there a motion?

2 MARY QUILLEN: Motion to approve.

3 PEGGY BARBAR: Second.

4 BENNY WAMPLER: Second. Any further discussion?

5 (No audible response.)

6 BENNY WAMPLER: All in favor, signify by saying

7 yes.

8 (All Board members signify by saying yes.)

9 BENNY WAMPLER: Opposed, say no.

10 (No audible response.)

11 BENNY WAMPLER: We need Exhibit E.

12 JIM KAISER: Yeah, we need Exhibit E on this one

13 too.

14 BENNY WAMPLER: Two more items, folks. Public

15 hearing comments. Any comments? Anyone?

16 (No audible response.)

17 BENNY WAMPLER: No comments. Thank you. Okay.

18 And the other is the minutes from last month's hearing.

19 DONNIE RATLIFF: I move that the minutes be adopted

20 as presented.

21 MARY QUILLEN: Second.

22 BENNY WAMPLER: Any further discussion?

23 (No audible response.)

24 BENNY WAMPLER: All in favor, signify by saying

1 yes.

2 (No audible response.)

3 BENNY WAMPLER: All in favor, signify by saying

4 yes.

5 (All Board members signify by saying yes.)

6 BENNY WAMPLER: Opposed, say no.

7 (No audible response.)

8 BENNY WAMPLER: They're approved.

9 JIM KAISER: I have a public comment.

10 BENNY WAMPLER: You're too late. The hearing is

11 closed.

12 JIM KAISER: Okay. I just...I just a comment.

13 BOB WILSON: Before we leave here, let me bring you

14 up to date on the escrow account situation while you guys are

15 filling those forms out. We got a little breathing room on

16 the change of agent. Basically, as I told you earlier, the

17 date of the transfer of Wachovia's assets to AST is July 1.

18 However, because our contract cannot be transferred without

19 our permission, it falls under what's called a retained

20 issue, which basically gives us an extra sixty days to get

21 our situation taken care of here without having to worry

22 about it. Basically, Wachovia will retain the contract for

23 that period of time. AST, which means the same people we've

24 been dealing with will actually do the work for us, but it

1 will still be under Wachovia's auspice. Wachovia is trying
2 very hard to come up with a means of handling this themselves
3 on a local basis, local IE in Virginia, probably Roanoke.
4 So, that's...that's basically where we stand on that right
5 now.

6 MARY QUILLEN: So, we have until September 1 then,
7 right.

8 BOB WILSON: Yes. We do have some breathing room.

9 BENNY WAMPLER: Do you need any response?

10 BOB WILSON: Oh, no.

11 BENNY WAMPLER: Okay. Thank you.

12

13 STATE OF VIRGINIA,

14 COUNTY OF BUCHANAN, to-wit:

15 I, Sonya Michelle Brown, Court Reporter and Notary
16 Public for the State of Virginia, do hereby certify that the
17 foregoing hearing was recorded by me on a tape recording
18 machine and later transcribed under my supervision.

19 Given under my hand and seal on this the 17th day
20 of July, 2006.

21

22 NOTARY PUBLIC

23

24 My commission expires: August 31, 2009.

--